

## CHAPTER VIII

### CANADIAN NATIONAL - CANADIAN PACIFIC ACT

Paragraph 2(e) of Order in Council P.C. 6033 directed the Commission to:

“(e) Review and report on the results achieved under the Canadian National-Canadian Pacific Act, 1933, and amendments thereto, making such recommendations as the present situation warrants.”

The above was included as a term of reference for this Commission presumably because of representations made by the provinces to the Federal Government (which have been referred to earlier in this Report) and because of lack of authority of the Board of Transport Commissioners under the Canadian National-Canadian Pacific Act. The Board in its decision<sup>1</sup> of March 30, 1948, authorizing a 21% increase, stated that the Canadian National-Canadian Pacific Act “does not confer upon the Board any duty or authority to require the railways to study and undertake any co-operative measures with a view to effecting economies or to review and investigate what measures they have taken or might have been taken under such Act”—an opinion upheld in the review Decision handed down by the Board on September 20, 1949.<sup>2</sup>

#### A. HISTORICAL BACKGROUND

With the onset of the depression in 1929 railway traffic in Canada declined sharply and the financial position of both major railways became so serious that the Government of Canada in 1931 appointed a Royal Commission for the purpose of inquiring “into the whole problem of transportation in Canada, particularly in relation to railways, shipping and communication facilities therein, having regard to present conditions and the probable future developments of the country, and report their conclusions and make such recommendations as they think proper.” The Order in Council<sup>3</sup> setting up the Royal Commission of 1931-32 and outlining the reasons for its appointment stated in part as follows:

“Having regard to the vital importance of transportation to the trade and commerce of Canada, the serious and continuing deficits of the Canadian National Railways System, and the diminished revenues of the Canadian Pacific Railway system, conditions which have been brought about in part by duplication of tracks, facilities and services of every kind and in part by competition by other modes of transportation, particularly motor vehicles operating on highways, the Ministers concur with the proposal that the whole subject be studied by Commissioners with the powers hereinafter set forth.”

Following hearings throughout Canada the Commission presided over by Sir Lyman P. Duff reported to the Government in September, 1932. The Report<sup>4</sup> made several references to duplication of services and consequent uneconomic use of transportation facilities and dealt at length with the need for co-operative measures between the two major railway systems.

Following the Report the Canadian National-Canadian Pacific Act was introduced in the Senate as Bill “A” and was assented to and became law on May 23, 1933.

In the years which followed the passage of the Act and while the depression continued there were joint co-operative measures instituted by the two railways.

<sup>1</sup> 62 C.R.C. 1.

<sup>2</sup> 64 C.R.C. 1.

<sup>3</sup> Order in Council P.C. 2910, November 20, 1931.

<sup>4</sup> Report of the Royal Commission to inquire into Railways and Transportation in Canada, 1931-32.

The plight of the railways, however, was still serious and there was much discussion throughout the country about amalgamation and considerable agitation (chiefly by the Canadian Pacific Railway) for unification of the two systems.

The first major review of the results achieved under the Canadian National-Canadian Pacific Act took place in 1938-39, when a Special Committee of the Senate was appointed to inquire into and report upon the best means of relieving the country of its extremely serious railway condition and the financial burden incidental thereto. It sat during 1938 and the early part of 1939 and in the course of its inquiry dealt with the co-operation achieved under the Act.

The final report brought down on May 11, 1939, rejected the unification proposal and referred to statements made by Canadian National Railways officials that all savings practical of attainment could be secured under a policy of enforced co-operation, with respect to which it was held that savings of from \$10,000,000 to \$15,000,000 might be effected even under the then depressed condition of railway transport. It was the view of the Senate Committee "that it is in the interest of the railways and of business generally that the uncertainty resulting from the Canadian Pacific agitation for unification be ended by frank recognition of the fact that unification of the railways is not possible of adoption and that further and more serious attempts should be made to give effect to the letter and the spirit of the Canadian National-Canadian Pacific Act, 1933." The Committee concluded that it was not advisable to modify the terms of the Act, until its possibilities were more thoroughly ascertained.

Shortly after the outbreak of war in 1939 the railways found themselves in a position where all their available facilities were required and consideration of co-operative projects of any consequence ceased. It was not until the post-war period and after an application for a 30% increase in freight rates was made by the railways that attention was directed again towards the importance of effecting economies through co-operative projects.

#### B. PROVISIONS OF THE ACT

The parts of the Canadian National-Canadian Pacific Act 1933 (23-24 George V. Chapter 33) relevant to co-operation are the introductory Part consisting of Sections 1 to 3, Part I, Section 14 and Parts II and III consisting of Sections 16 to 28 and the Commission has limited its attention accordingly.

Section 16(1) of the Act is in part as follows:

"The National Company . . . and the Pacific Company . . . are, for the purposes of effecting economies and providing for *more remunerative operation* directed to attempt forthwith to agree and continuously to endeavour to agree, and they respectively are, for and on behalf as aforesaid, authorized to agree, upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted (with due regard to the equitable distribution of burden and advantage as between them) to effect such purposes."

Three important features of this Section are:

- (i) That the legislation is to enable the railways to effect economies — this is the principal objective of the Act;
- (ii) That in the pursuit of economy the two railways are to attempt to agree upon co-operative measures, i.e. co-operation by agreement is the means of attainment of the objective; and
- (iii) That both the burden and advantage are to be equitably distributed between the two railways — Parliament did not expect nor intend that one railway should bear the burdens and the other should reap the advantages. One must not lose sight of these features.

Part III of the Act provides for the setting up of a tribunal for the settling of disputes if any arise, the presiding officer of any tribunal to be the Chief Commissioner of the Board of Transport Commissioners for Canada and the other members of the tribunal to be one representative from the Canadian National Railway and one from the Canadian Pacific Railway.

Section 14, Subsection (1), of the Act (as amended) deals with the report to Parliament and reads as follows:

"The Board of Directors (Canadian National Railways) shall make a report annually to Parliament setting forth in a summary manner the results of their operations, any co-operative measures, plans or arrangements effected pursuant to this Act, any economies or more remunerative operation thereby produced, the amounts expended on capital account in respect of National Railways and such other information as appears to them to be of public interest or necessary for the information of Parliament with relation to any situation existing at the time of such report, or as may be required from time to time by the Governor in Council."

Section 27 of the Act provides:

"Nothing in this Act shall be deemed to authorize the amalgamation of any railway company which is comprised in National Railways with any railway company which is comprised in Pacific Railways nor to authorize the unified management and control of the railway system which forms part of National Railways with the railway system which forms part of Pacific Railways."

This may be taken as a clear intimation that co-operation was not to reach the stage of amalgamation or unification. The two systems were to co-operate to achieve economy, but their identities were to be kept separate both corporate-wise and management-wise.

### C. ACCOMPLISHMENTS UNDER THE CANADIAN NATIONAL- CANADIAN PACIFIC ACT

It appears from evidence submitted to this Commission that the Act has been invoked chiefly with regard to passenger train pooling. There were also some line abandonments, joint freight and passenger facilities, running rights and haulage of freight without line abandonment and certain miscellaneous projects including joint operation by the two companies of the Vancouver Hotel. Appendix "A" to this Chapter contains a memorandum showing details of various co-operative projects. The Canadian National Railways and the Canadian Pacific Railway Company through their working committee, the Joint Co-operative Committee, have made seventeen studies which have resulted in co-operative action producing an annual joint economy of approximately \$1,189,240, of which some \$972,000 was from passenger train pooling in Ontario and Quebec. Other studies have been made of projects which it was estimated might produce further joint economies of \$774,525 annually, but which for various reasons have not been put into effect. Still other projects were investigated, but not proceeded with.

It will be noted that co-operative action with respect to passenger train pooling, joint freight and passenger facilities, joint switching, haulage of freight by one company for the other and change of interchange location took place during the two years 1933 and 1934. Projects with regard to "line abandonments with joint use of remaining line" and "line abandonments with abandonment of territory" took place for the most part during the period 1936 to 1941.

With the outbreak of war in 1939 emphasis was placed on utilization of facilities rather than on abandonment and as the war progressed the need for all existing facilities became increasingly apparent. Work on co-operative projects ceased and between 1941 and 1947 none was adopted. In the period 1947-48 there were two projects with regard to line abandonments.

Since this report is to deal only with co-operative measures brought about under the Act, this Chapter is confined to such matters. It is useful to add, however, that for years before the Act came into force the practice of the railways was to enter into joint arrangements with one another, e.g. joint facility agreements providing for joint use of the facilities of another company. In addition there are other instances of co-operation between the railroads with respect to such items as integration of communication facilities; co-operative measures involving the handling of express traffic, etc. This is pointed out merely to show that there are co-operative activities between the railways other than those brought about by the Act.

#### D. COMPLAINTS AND SUGGESTIONS

The main complaints were:

(1) That the railways had not adopted sufficient co-operative measures under the Act — references were made to the estimates of possible economies predicted at the time of the Royal Commission of 1931-32.

(2) That there is no jurisdiction in the Board of Transport Commissioners or in any other body to investigate what measures the railways have taken under the Act or to see that all possible economies have been effected.

(3) That if the railways cannot agree on a measure it ends there and there is no one to "enforce co-operation". (There is however in the Act provision for an arbitral tribunal to settle disputes between the two railway companies.)

(4) The railways complain that on measures where they have reached agreement where abandonments of lines were involved, some of the parties who now urge co-operation opposed railway applications to the Board for the approval of such abandonments.

The suggestions made to the Commission may be summarized as follows:

(a) The Board of Transport Commissioners should have jurisdiction to investigate possible co-operative measures and to recommend the adoption of them by the railways, and to make report thereon to Parliament;

(b) The Board should have power to enforce "Co-operation" between the railways;

(c) In rate cases, the Board should not grant increases in rates until the railways have affirmatively shown that all possible economies under the Act have been effected;

(d) Another proposal was that a new tribunal should be set up to conduct research into possible co-operative measures and to make recommendations to the railways and to submit reports to Parliament;

(e) The railways took the position that the Act should remain in force, and that no amendments are required.

#### E. CONCLUSIONS

1. The Act was passed to effect economies in railway operations during the depression and to improve railway revenues. Its primary purpose was not to lower rates. It should be noted, however, that estimates of saving made at the time of the Royal Commission of 1931-32 were based upon a theory of amalgamation or unification.

2. At the time of enactment economic conditions and the tactics of the two railways fully justified the legislation.

3. The results achieved under the Act have been twofold: (i) economies have resulted which exceeded a million dollars a year in the 1930's; (ii) the railways have been deterred from damaging and wasteful competition. In judging of the success of the Act both results must be considered.

4. The possibility of making further economies is restricted by the growth which has taken place in the volume of traffic; but the importance of preventing extravagant competition remains. No one appearing before this Commission recommended or favoured the repeal of the Act.

5. Under present conditions, shippers have a direct interest in economies in railway operation which they did not have in the 1930's. At that time the emphasis had been on economies since it was not possible to increase rates, whereas during the last few years with increased volume of traffic and higher operating costs rates have been increased to bring railway revenues up to appropriate standards. Shippers or their spokesmen have therefore raised the question of whether full use is being made of the Act.

6. Economies usually involve the employment of less labour and they usually curtail the services offered to shippers. In the 1930's, when neither labour nor shippers were likely to benefit from the economies, they were certain to meet with opposition. Greater economies could have been effected if the railways had not met with so much opposition from localities affected by proposed curtailment of services and abandonments of lines. Appendix "A" shows that savings of more than \$435,000 per annum could have been made.

7. There is always some danger of short-sighted economies. Lines which it was once thought prudent to abandon have since been justified by increases in the volume of traffic; and the growth of population has made some measures of co-operation unnecessary. In such questions no judgment can be infallible and the best decision is probably that reached by experienced railway officials.

8. The suggestion that the Board, in revenue cases, should require the railways to show that they have neglected no possible economy under the Act seems unworkable. It would require the railways to prove a negative and would lend itself to obstruction.

9. The Act has served a useful purpose. In proposing amendments to it, the aim of the Commission is to improve the character of the annual report received by Parliament.

#### F. RECOMMENDATIONS

The Commission recommends that the Act be continued but be amended so as to provide that the annual report submitted to Parliament by the Directors of the Canadian National Railways shall contain a separate section giving in a summary manner information concerning:—

- (i) The results achieved and the economies effected under the Act during the immediately preceding fiscal year of the railways.
- (ii) Co-operative projects then approved by the railways but not yet completed.
- (iii) Co-operative projects then approved by the railways but not proceeded with and the reasons therefor.
- (iv) Co-operative projects studied by the railways but not approved and the reasons therefor.
- (v) Co-operative projects currently being studied by the railways, and such other information as appears to the Directors to be of public interest or necessary for the information of Parliament with relation to any situation existing at the time of such report or as may be required from time to time by the Governor in Council.
- (vi) An estimate of the annual value, having regard to the traffic conditions and cost of railway operations obtaining at the time of the report, of continuing co-operative measures, such as the pooling of trains.

## APPENDIX A

CANADIAN NATIONAL - CANADIAN PACIFIC ACT  
JOINT CO-OPERATIVE COMMITTEE RESULTS  
1933 to 1949

The following statements indicate the results achieved under the C.N.-C.P. Act from its inception in 1933 to January 1, 1949:

## STATEMENT 1

JOINT CO-OPERATIVE COMMITTEE PROJECTS  
IN EFFECT AS OF JANUARY 1, 1949

	Estimated Annual Joint Economy	
<i>Passenger Train Pooling</i>		
Montreal-Toronto, Toronto-Ottawa Limited Pool effective April 2, 1933. ....	\$495,000	
Montreal-Toronto, Toronto-Ottawa Montreal-Quebec extended pool effective March 11, 1934. ....	477,000	\$ 972,000
<i>Joint Freight &amp; Passenger Facilities</i>		
Saint John, N.B. Consolidation of Car Cleaning & Repair Staffs under C.N. Supervision, effective December 1, 1933. ....	10,163	
Fredericton, N.B. C.P. Freight Office and Shed & C.N. Passenger Station closed and joint use of remaining facilities, effective March 1, 1934. ....	8,895	
Quebec, P.Q. Consolidation of Car Cleaning Staffs under C.P. super- vision, effective June 16, 1933. ....	17,736	
Gladstone, Man. Joint use of C.N. Station, effective July 3, 1933. ....	2,800	39,594
<i>Joint Switching</i>		
Portage la Prairie, Man. Each company performs joint yard and industrial switching in alternate months, effective November 1, 1933. ....	7,500	7,500
<i>Handling of Freight by One Company for the Other</i>		
Fredericton, N.B.-Vanceboro, Maine, C.N. traffic hauled by C.P. effective December 1, 1933. ....	9,000	
Calgary-Edmonton, Alta.-Kamloops, B.C., C.N. grain traffic origina- ting in Calgary district hauled to Kamloops by C.P., and C.P. grain traffic originating in Edmonton district hauled to Kamloops by C.N., effective November 13, 1933. ....	60,000	69,000
<i>Change in Interchange Location</i>		
Freight traffic formerly interchanged at Lennoxville, P.Q., now interchanged at Lower Sherbrooke, P.Q., effective January 1, 1934	4,416	4,416
<i>Line Abandonments with Joint Use of Remaining Line</i>		
Cyr-Edmundston, N.B., C.P. abandoned 27.6 miles of line and use C.N. line between these points, effective July 1, 1936. ....	30,000	
Iberville-Farnham, P.Q. C.N. abandoned 10.9 miles of line between these points, effective April 26, 1936. ....	12,347	
Red Deer Jct.-Red Deer, Alta., C.N. abandoned 4.9 miles of line and use C.P. line between these points, effective March 27, 1941. ....	2,560	
Alix-Nevis, Alta., C.N. abandoned 9.5 miles of line and use C.P. line between these points, effective October 18, 1948. ....	6,135	
Trelle Jct.-Morinville, Alta., C.N. abandoned 12.2 miles of line and use N.A.R. line between these points, effective September 1, 1947	8,688	59,730
<i>Line Abandonment with Abandonment of Territory</i>		
St. Canut-Cushing Jct., P.Q., C.N. abandoned 24.6 miles of line and discontinued business in the territory, effective August 1, 1940. .	24,000	
Linwood-Listowel, Ont., C.P. abandoned 16.5 miles of line and dis- continued business in the territory, effective May 14, 1939. ....	13,000	37,000
Estimated Annual Joint Economy from all Joint Co-operative Com- mittee Projects in Effect as of January 1, 1949. ....		<u>\$1,189,240</u>
Miles of line abandoned. ....	C.N. 62.1 C.P. 44.1	
Total. ....	106.2	

## STATEMENT 2

LINE ABANDONMENT PROJECTS APPROVED BY BOARD OF  
TRANSPORT COMMISSIONERS BUT NOT EFFECTIVE

	Estimated Annual Joint Economy	
Middleton-Bridgetown, N.S.		
C.N. abandon 13.2 miles of line and withdraw from territory....	\$ 16,800	
Langdon-Beiseker, Alta.		
C.N. abandon 10 miles of line. C.P. abandon 22.6 miles of line. Each company use remaining lines in territory jointly.....	30,500	
Forth-Ullin, Alta.		
C.P. abandoned 64.7 miles of line and withdraw from territory.		
C.N. abandon 6.5 miles and lease 7.0 miles of C.P. abandoned line	<u>58,000</u>	<u>\$ 105,300</u>

## STATEMENT 3

LINE ABANDONMENT PROJECTS CONSIDERED BY BOARD OF  
TRANSPORT COMMISSIONERS BUT NO ORDER ISSUED

	Estimated Annual Joint Economy	
Dranoel-Medonte, Lindsay-Bobcaygeon, Ontario.		
C.P. abandon 90.3 miles of line and withdraw from territory. C.N. lease 16.2 miles of abandoned line and agree that C.P. may have through running rights on C.N. line between Medonte and Peterboro when certain specific future conditions obtained.....	\$ 55,700	<u>\$ 55,700</u>

## STATEMENT 4

LINE ABANDONMENT PROJECTS RECOMMENDED BY JOINT CO-OPERATIVE  
COMMITTEE BUT DISALLOWED BY THE BOARD OF  
TRANSPORT COMMISSIONERS

	Estimated Annual Joint Economy	
Arnprior-Eganville, Ont.		
C.N. abandon 37.9 miles of line and withdraw from the territory..	\$104,000	
Cataract-Fergus, Ont.		
C.P. abandon 24.7 miles of line and withdraw from territory....	22,724	
MacGregor-Varcoe, Man.		
C.P. abandon 54.4 miles of line and withdraw from territory....	45,000	
Louise-Deloraine, Man.		
C.N. abandon 56.3 miles of line and withdraw from territory....	30,000	
Portage la Prairie-Gladstone, Man.		
C.N. abandon 36.4 miles of line. Each company use remaining line in territory jointly.....	34,500	
Hamiota-Miniota, Man.		
C.P. abandon 19.8 miles of line and withdraw from territory....	15,000	
Hallboro-Beulah, Man.		
C.N. abandon 75.2 miles of line and withdraw from territory....	65,000	
Reston-Wolseley, Sask.		
C.P. abandon 122.4 miles of line and withdraw from territory...	104,550	
Carbondale-Egremont, Alta.		
N.A.R. abandon 29.8 miles of line. C.N. and N.A.R. use remain- ing line in territory jointly.....	<u>14,421</u>	<u>\$ 435,195</u>

## STATEMENT 5

## PROJECTS RECOMMENDED BUT NOT PROCEEDED WITH

	Estimated Annual Joint Economy	
Joint Switching: Mimico-Swansea, North Toronto-Leaside Areas....	\$ 16,430	
Bala-Park-Wanup, Ont.		
C.N. abandon 141.2 miles of line. Each company use remaining line in territory jointly.....	<u>161,900</u>	<u>\$ 178,330</u>

## STATEMENT 6

LINE ABANDONMENT PROJECTS STUDIED CO-OPERATIVELY BUT  
ULTIMATELY PROCEEDED WITH AS EXCLUSIVE PROJECTS

Ste. Therese-St. Eustache, P.Q.

C.P. abandon 5.7 miles of line and withdraw from the territory.

Joliette-Montfort Jct. and Fresniere-Shawbridge, P.Q.

C.N. abandon 44.3 miles of line and each company use remaining line in territory jointly.

## STATEMENT 7

LINE ABANDONMENT PROJECTS RECOMMENDED BUT SUBSEQUENTLY FOUND  
TO BE INADVISABLE BECAUSE OF INCREASING INDUSTRIAL  
DEVELOPMENT IN THE TERRITORY

Birds Hill-East Selkirk, Man., C.N. abandon 15.3 miles of line. Each company use remaining line in territory jointly.

## STATEMENT 8

## PROJECTS FOUND TO BE UNECONOMICAL

Scotts Jct.-North to the River, P.Q., abandon either C.N.R. or Quebec Central Railway line and both use remaining line jointly.

Lanoraie-Joliette, or Paradis-Joliette, P.Q., abandon 6.3 miles of C.P.R. line or 10.6 miles of C.N. line, both companies using the remaining line jointly.

Belair-Lachevrotiere, P.Q., alternative C.N.R. or C.P.R. line abandonments with both companies using remaining line jointly.

Federal-Smiths Falls, Ont., abandon 33.8 miles of C.N.R. line and both companies use C.P.R. line jointly.

Smiths Falls-Yarker, Ont., abandon 51.3 miles of C.N.R. line and use C.P.R. line jointly.

Glen Tay-Shannonville, Ont., abandon 69 miles of C.P.R. line with joint use of 84 miles of C.N.R. line.

Ottawa-Pembroke, Ont., abandon either C.N.R. or C.P.R. line with both companies using the remaining line.

Ottawa West-Carleton Place, Ont., abandon 24 miles of C.P.R. line and both companies using C.N.R. line jointly.

West Tower-Deer, Man., abandon 23.9 miles of C.N.R. line and both companies use C.P.R. line jointly.

Rosburn Jct.-Orrville, Man., abandon 9.2 miles of C.N.R. line and both companies use C.P.R. line jointly.

Estevan-Bienfait, Sask., abandon 6 miles of either C.N.R. or C.P.R. line.

Regina-Moose Jaw, Sask., abandon 40.0 miles of C.N.R. line, both companies using C.P.R. line jointly.

Young-Colonsay, Sask., abandon either C.N.R. or C.P.R. line.

Saint John, N.B., joint yard switching.

Toronto, Ont., joint switching, Union Station and Coach Yard.

Chatham, Ont., joint switching, Sugar Company premises.

MacTier and South Parry, Ont., consolidation of C.P.R. locomotive and terminal facilities with those of C.N.R. at South Parry or vice versa.

Parry Sound, Ont., joint yard switching.

Estevan, Sask., joint yard and industrial switching.

Regina, Sask., joint industrial switching.

Saskatoon, Sask., joint industrial switching.

Calgary, Alta., joint yard switching.

Kelowna, B.C., joint yard switching.

Halifax, N.S., Saint John, N.B., and other points, establishment of joint ticket offices.

Montreal, P.Q.-Boston, Mass., extension of passenger train pool services to include Montreal-Boston trains.

Extension of passenger train pool to West of Toronto, Montreal-Winnipeg, Man. and Toronto-Winnipeg and West.

Pembroke-North Bay, Ont., all C.P.R. through traffic over C.N.R. line.

Kamloops-Vancouver, B.C., hauling C.P.R. through traffic over C.N.R. line.



## STATEMENT 9

## PROJECTS ON WHICH STUDY WAS INTERRUPTED OWING TO WAR ACTIVITIES

Between Competitive Points . . . . .	Nation-wide pool competitive passenger train services.
Woodstock-Windsor, Ont. territory . . . . .	Abandonment of competitive lines.
Nipigon-Current Jct., Ont. . . . .	Abandon C.P.R. line and running rights over C.N.R. line.
Fort William-James, Ont. . . . .	Abandon C.P.R. line and running rights over C.N.R. line.
Winnipeg-Morris, Man. . . . .	Abandon either C.N.R. or C.P.R. line and joint use of other line.
Brandon-Maon, Man. . . . .	Abandon C.N.R. line and joint use of C.P.R. line.
Saskatoon-Unity, Sask. . . . .	Abandon functionally duplicate line.
Bruderheim-Edmonton, Alta. . . . .	Abandon functionally duplicate line.
Fort William & Port Arthur . . . . .	Joint operation of Lake Head Terminals.
Saskatoon, Sask. . . . .	Union Passenger Terminal.
Calgary, Alta. . . . .	Union Passenger Terminal.
Edmonton, Alta. . . . .	Union Passenger Terminal.
Edmonton & Calgary to Vancouver, B.C. . . . .	Extension of co-operative agreement for handling westbound grain to Kamloops to include freight traffic. Vancouver to be made interchange point.
Okanagan Valley-Vancouver, B.C. . . . .	Handling of freight traffic by one company for the other.
System . . . . .	Territorial withdrawals of duplicate telegraph offices on a reciprocal basis.

## STATEMENT 10

## OTHER PROJECTS WHICH HAVE RECEIVED STUDY

Montreal-Vaudreuil . . . . .	Pooling of suburban service.
Okanagan Valley . . . . .	Pooling of train and boat services.
Shannonville-Darlington, Ont. . . . .	Abandon C.P.R. line and use jointly C.N.R. line.
North Bay-Yellek, Ont. . . . .	Abandon 7.9 miles C.N.R. line and joint use of C.P.R. line and station.
Sudbury, Ont.-Winnipeg, Man. . . . .	Abandonment of duplicate lines.
Kamloops-Vancouver, B.C. . . . .	Abandon either C.N.R. or C.P.R. line and joint use of other line.
Halifax, Yarmouth, Regina, Saskatoon . . . . .	Freight Terminals Regina & Saskatoon, and joint facilities Halifax and Yarmouth.
North Bay, Ont. . . . .	C.P. station facilities to be used jointly.
Sudbury, Ont. . . . .	Joint Passenger and Freight Terminals.
Ottawa, Ont. . . . .	Joint use of C.P.R. locomotive terminal facilities at Ottawa West and C.N.R. locomotive facilities at Deep Cut.
C.N.R. & C.P.R. Telegraph Companies . . . . .	Consolidation of Commercial Telegraph Companies.
C.N.R. & C.P.R. Express Companies . . . . .	Consolidation of Express Departments.
St. Johns, P.Q.-White River, Vt. . . . .	Running rights for C.P.R. trains over C.N.R. tracks.
Sherbrooke, P.Q.-St. Johnsbury, Vt. . . . .	Handling of C.P.R. freight traffic to New England points via C.N.R. lines.
Montreal . . . . .	Montreal Joint Stock Yards.
Kamloops-Hope, B.C. . . . .	C.P.R. to use C.N.R. line for freight service and C.N.R. to use C.P.R. line for passenger service.
Pacific Coast Steamships . . . . .	Amalgamation of present fleets under a separate company or the elimination of duplicate service.

## CHAPTER IX

### THE MARITIME FREIGHT RATES ACT

As a result of the recommendations contained in a report of the Royal Commission on Maritime Claims dated September 23, 1926, Parliament enacted the Maritime Freight Rates Act, 17 George V, Chapter 44.

The preamble to the Act reads as follows:

"WHEREAS the Royal Commission on Maritime Claims by its report, dated September 23rd, 1926, has, in effect, advised that a balanced study of the events and pronouncements prior to Confederation, and at its consummation, and of the lower level of rates which prevailed on the Intercolonial System prior to 1912, has in its opinion confirmed the representations submitted to the Commission on behalf of the Maritime Provinces, namely that the Intercolonial Railway was designed, among other things, to give to Canada in times of national and imperial need an outlet and inlet on the Atlantic Ocean, and to afford to Maritime merchants, traders and manufacturers the larger market of the whole Canadian people instead of the restricted market of the Maritimes themselves, also that strategic considerations determined a longer route than was actually necessary, and therefore that to the extent that commercial considerations were subordinated to national, imperial and strategic conditions, the cost of the railway should be borne by the Dominion, and not by the traffic which might pass over the line;

"AND WHEREAS the Commission has, in such report, made certain recommendations respecting transportation and freight rates, for the purpose of removing a burden imposed upon the trade and commerce of such Provinces since 1912, which the Commission finds, in view of the pronouncements and obligations undertaken at Confederation, it was never intended such commerce should bear;

"AND WHEREAS it is expedient that effect should be given to such recommendations in so far as it is reasonably possible so to do without disturbing unduly the general rate structure in Canada;

"THEREFORE His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:"

There are two important statements in the preamble which form a guide in reaching decisions on the various claims put forward by parties appearing before the Commission asking that the Act be amended in various ways:

1st. The recognition of pre-Confederation pronouncements that the Intercolonial Railway was designed to afford Maritime merchants, traders and manufacturers the larger market of the whole Canadian people instead of the restricted market of the Maritimes themselves; and

2nd. The recognition that, having regard to such pre-Confederation pronouncements, the burden imposed upon the trade and commerce of the Maritime Provinces resulting from increased freight rates after 1912 was never intended to be borne by such trade and commerce.

Section 4 of the Act lists "preferred movements":

- "(a) Local traffic, all rail—Between points on the Eastern lines; for example Sydney to Newcastle;
- (b) Traffic moving outward, westbound, all rail—From points on the Eastern lines westbound to points in Canada beyond the limit of the Eastern lines at Diamond Junction or Levis; for example, Moncton to Montreal—the twenty per cent reduction shall be based upon the Eastern lines proportion of the through rate or in this example upon the rate applicable from Moncton west as far as Diamond Junction or Levis;
- (c) Traffic moving outward, export traffic, rail and sea — From points on the Eastern lines through ocean ports on the Eastern lines destined overseas; for example, Fredericton to Liverpool via St. John—the rate affected shall be that applicable from Fredericton to St. John."

And also provides that traffic moving over car ferries shall be treated as all-rail traffic.

For greater clarity Section 5 lists movements which are not "preferred";

- "(a) Traffic moving inward or outward to or from the United States, all rail—From or to points in the United States to or from points on the Eastern lines;
- (b) Traffic moving inward, eastbound, from Canada, all rail—From points in Canada not on the Eastern lines eastbound to points on the Eastern lines; for example—Toronto to Moncton;
- (c) Import traffic to Canada, originating at points overseas; for example, Liverpool to Moncton or to Toronto;
- (d) Passenger movements and express movements."

Although the Act is entitled "An Act respecting the Canadian National Railways and the tariffs of tolls to be charged on certain Eastern lines," provision is made by Section 9 for its application to other railways operating in the "Select Territory" which includes the Maritime Provinces and part of the Province of Quebec.

Section 3 of the Act provides for the cancellation of freight tariffs existing on July 1, 1927, on "preferred" movements and the substitution of tariffs showing a reduction of approximately 20%.

Section 6 provides as follows:

"6. For accounting purposes, but without affecting the management and operation of any of the Eastern lines, the revenues and expenses of the Eastern lines, including the reductions herein authorized which shall be borne by the Eastern lines, shall be kept separately from all other accounts respecting the construction, operation or management of the Canadian National Railways."

"2. In the event of any deficit occurring in any railway fiscal year in respect of the Eastern lines the amount of such deficit shall be included in a separate item in the estimates submitted to Parliament for or on behalf of the Canadian National Railways at the first session of Parliament following the close of such fiscal year."

Section 7 provides as follows:

"7. The rates specified in the tariffs of tolls, in this Act provided for, in respect of preferred movements, shall be deemed to be statutory rates, not based on any principle of fair return to the railway for services rendered in the carriage of traffic; and no argument shall accordingly be made, nor considered in respect of the reasonableness of such rates with regard to other rates, nor of other rates having regard to the rates authorized by this Act."

Section 8 provides as follows:

"8. The purpose of this Act is to give certain statutory advantages in rates to persons and industries in the three provinces of New Brunswick, Nova Scotia and Prince Edward Island, and in addition upon the lines in the province of Quebec mentioned in section two, together hereinafter called 'select territory,' accordingly the Board shall not approve nor allow any tariffs which may destroy or prejudicially affect such advantages in favour of persons or industries located elsewhere than in such select territory."

(These sections appear to be exceptionally broad in scope and stringent in application. They are not concerned with granting equality in treatment between the select area and the rest of the country. On the contrary they prescribe advantages in rates which persons and industries in this area are to enjoy over those in the other areas. And they make it the Board's duty not to approve or to allow any tariffs which may affect such advantages.)

To sum up, then, it may be said that the effect of the Act is that:

On westbound traffic as far as Levis from any point in the Select Territory and on all local traffic within such territory the rates are 20% below the rates

in effect on July 1, 1927, subject, however, to any increases or decreases which have been or may hereafter be allowed by the Board to meet increases or reductions in cost of railway operations after July 1, 1927, permitted by Section 3(2)(b). These rates are made statutory rates not based on any principle of fair return to the railways, and the purpose of the Act is to give certain statutory advantages in rates to persons and industries in the Select Territory, and the Board is not permitted to approve or allow any tariffs which may destroy or prejudicially affect such advantages in favour of persons or industries located elsewhere.

The difference between "normal" tolls and the tolls in the tariffs established under the Act is paid by the Government to the railways and included in the annual estimates submitted to Parliament.

The provisions of the Act were made applicable on and after April 1, 1949, to the Newfoundland Railway, including the steamship service between North Sydney and Port aux Basques.

It is perhaps important in considering the matter to bear in mind that the 20% reduction was based on a calculation made by the Royal Commission under the Chairmanship of Sir Andrew Rae Duncan, which found that from 1876 to 1912 rates over the Intercolonial Railway had been kept at a low level to carry out the policy of successive federal governments and the pledges that had been made prior to Confederation. The Duncan Commission found that the rates had been increased after 1912 on the Intercolonial so that "their 100 had become 192" and that the estimated average increase of rates in the rest of Canada was 55%, so that "their 100 has become 155". The 20% reduction on the Intercolonial rates was intended to make the 192 become approximately 155, and thus restore the position previously enjoyed.

#### COMPLAINTS AND SUGGESTIONS

1. The chief complaint presented to the Commission concerning the operation of the Act had to do with a situation which arises out of truck competition in the Provinces of Quebec and Ontario. It was alleged by the Maritime Board of Trade that, as a result of truck competition in these provinces, the railways had reduced their rates on traffic in Central Canada while maintaining them on similar traffic moving from the Maritimes to Quebec and Ontario. This, it was urged, was contrary to the provisions of Section 8 of the Act. A case dealing with the matter was brought before the Board in connection with rates on potatoes: *Maritime Board of Trade v. C.N.R.* 44 C.R.C. 289, and was appealed to the Supreme Court of Canada: 46 C.R.C. 161. The Board found that it had not been proven that the competitive tariffs had resulted in the destruction of, or to the prejudice of, the advantages provided to shippers in select territory under the Act. The Supreme Court refused to disturb the finding of fact made by the Board. Two important observations were made in that case. First, one made by the Board when it pointed out that the cancellation of the competitive rates in Ontario would not improve the position of the Maritime shippers in any degree since the raising of tolls in Ontario would merely drive business to the trucks and the Board has no authority to lower tolls in the Maritimes because of competition existing in another part of the country. It would only result in depriving the Railways of the small portion of the transportation of potatoes in Ontario which they have been able to retain even under a substantial reduction in rates. Second, one made by the Supreme Court when it held that, while the Board had power to cancel rates in outside territory which might destroy the statutory advantages given by the Act, it has no power to vary rates in select territory by allowing a reduction proportionate to the reduction made by the Railways in the territory outside the select territory.

The Maritime Board of Trade contends that the effect of these findings is:

- (a) It is "practically impossible to indicate prejudice as required by the Board because of so many economic factors involved which might influence the movement separate and apart from transportation. The difficulty is to segregate the transportation factor from the others and have it appear as the (sole) cause of the destruction of Maritime trade at a particular time and place . . ."
- (b) The "fact remains; however, that competitive rates tend to destroy rate relationships on which industries have been constructed and developed and the industries within the pale of motor and water transportation have a distinct advantage over those which are located outside and are competing in the same competitive zone."
- (c) Although the Act as interpreted is applicable to competitive rates outside the "select territory", if such rates prejudicially affect or destroy the statutory advantages, "the Act is valueless if the rates are bona fide competitive."
- (d) As a result these changes which have taken place mainly outside select territory have tended to "nullify" or "whittle away" the statutory advantages intended to be maintained by the Act.

The Maritime Board of Trade accordingly asked the Commission to recommend an amendment to the Maritime Freight Rates Act, by adding after the word "territory" in line 9 of Section 8 the following:

"and the Board is authorized and directed to adjust or vary tolls or rates subject to the Act from time to time as may, in the opinion of the Board, be necessary to maintain the said statutory advantages in rates when there have been reductions in tolls or rates elsewhere than in such select territory."

This proposed amendment was supported by Nova Scotia, New Brunswick and Prince Edward Island.

The railways opposed the proposed amendment on the grounds (a) that the Act was never intended to keep constantly in balance the relationship between competition and regions as it existed when the Act was passed; (b) that the so-called "whittling away" of the statutory advantages to persons and industries in the Maritimes by rate reductions in Central Canada arises out of truck competition in Ontario and Quebec and not out of any voluntary action by the railways, and (c) that the proposed amendment would unduly extend the preferences intended to be created by the Act.

2. The second complaint was that the effect of the recent horizontal increases had destroyed or prejudiced the statutory advantages given to persons and industries in the select territory by Section 8 of the Act. In the briefs presented by the governments of New Brunswick and Nova Scotia and the Maritime Board of Trade it was proposed that the statutory reduction should apply as far west as Windsor, Ontario, or at least as far as Toronto, and not merely over the portion of the haul in select territory.

It must be assumed that the proposal has since been abandoned because none of the amendments submitted by any of the Maritime Provinces or the Maritime Board of Trade deal with the matter, and indeed the amendments which they do submit to other sections of the Act indicate that the reduction should apply on only the Eastern lines proportion of the through rate.

3. The Province of New Brunswick also asked the Commission to recommend that the 20% reduction under the Act be changed to 30%. It was stated that this would not restore the rate levels which prevailed prior to the recent post-war increases, but would partially compensate for such increases. Presumably the recent increases would be applied against the "normal" tolls less 30% instead of against the "normal" tolls less 20%.

4. The Province of New Brunswick asked the Commission to recommend that the statutory reduction increased as above to 30% apply to inward or eastbound traffic as well as to outward or westbound traffic. The avowed purpose of the proposal was to lower the prices to domestic consumers, and by cutting the costs to manufacturers of goods used in their production, to reduce the disadvantages suffered by the New Brunswick manufacturers.

There was a difference of opinion between some of the manufacturers in New Brunswick on the one hand and the Government of the Province on the other. The manufacturers apparently do not want the reduction on inward or eastbound traffic. Counsel for the province stated that his government was mainly concerned with consumers, and was not in favour of building up industry in New Brunswick "under the protection of high freight rates".

5. Prince Edward Island asked that the Act be amended so as to make the statutory reduction apply to inward or eastbound traffic but only on specific articles entering into production costs of their basic industries, e.g. on agricultural machinery, trucks, tractors, fertilizer, fishing equipment and supplies.

6. At present the provisions of the Act apply to traffic moving by car ferries across the Straits of Northumberland, and Canso, and also by steamships (not being car ferries) across the Cabot Strait, but not to the Canadian Pacific Steamships plying between Saint John, N.B., and Digby, N.S. The Maritime Board of Trade asks for an amendment to the Act which would provide that "through traffic between Saint John and Digby moving over a steamship service owned, chartered, used, maintained or worked by a Railway Company subject to this Section 9 shall be treated as all-rail traffic. Both the Canadian Pacific and Canadian National railways supported the proposed amendment.

7. Under existing legislation the Act applies only to all-rail movements beyond Levis. Nevertheless the practice of the railways and of the Board is to apply it also to rail-and-lake and to rail-lake-and-rail movements beyond Levis, for example, Moncton to Winnipeg, via steamer from Point Edward or Port McNicoll to Port Arthur or Fort William. The Maritime Board of Trade proposed to amend the Act to make it conform to this practice. The railways supported the proposal.

8. Under a decision of the Supreme Court of Canada the Saint John gateway is effectively closed to westbound traffic originating on Canadian National lines in the select territory. The Maritime Board of Trade and the Province of Prince Edward Island ask to have the Act amended so as to enable alternative routings. This matter is dealt with under a separate heading, "The Saint John Gateway".

9. The Canadian Pacific Railway proposed that the Board be given power to adjust or vary tolls under the Act as may, in its opinion, be necessary to give effect to any general readjustment of rates in Canada. The railway pointed out that at the present time the Board may vary tolls from time to time as new industrial or traffic conditions arise, or may increase or reduce tolls when there are increases or reductions in cost of railway operations, but that the Act in its present form does not permit a change to provide for such a general readjustment in rates as might be brought about by a scheme for equalization of rates across Canada, and that hence the Act might stand in the way of an equalization proposal.

The Maritime Board of Trade and the Maritime Provinces opposed the amendment proposed by the Canadian Pacific.

10. The Canadian National Railways asked for the repeal of Section 6 of the Maritime Freight Rates Act. The Company says that it does not keep separate accounts for its eastern lines, but collects its share of the subsidies payable under the Act in the same manner as other railways operating in the select territory.

The Royal Commission presided over by Sir Lyman Poore Duff stated that "no good purpose is served by such a division in the accounts," and that the Act "should be applied to the Canadian National Railways in a similar manner to that of other railways" operating within the select territory.

11. The City of Quebec and the Chamber of Commerce of that City asked that the City of Quebec be included in the select territory. This matter is separately dealt with elsewhere in this report under the heading "Claim of the City of Quebec for extension of Maritime Freight Rates Act".

12. There were complaints about the "arbitrariness" over Montreal and the Commission was asked to recommend that they be restored to, and maintained by law at, the level of July 1, 1927. This matter is dealt with separately under the heading "Arbitrariness over Montreal".

13. Although the foregoing are the principal complaints and suggestions made regarding the legislation there were others of a more general character and these may be summarized as follows:

- (a) The Canadian National Railways are opposed to its extension, and state that no other Acts should be passed based upon the same principle;
- (b) The Canadian Pacific Railway agrees that the principle of the Act should not be extended, but does not recommend its repeal or alteration because vested interests have been built up under it which might be destroyed. The company states (i) that this type of assistance does not encourage normal or desirable economic development, and (ii) its extension would be detrimental to the national interest, and would result in serious rigidities in the rate structure and constant claims for further extensions;
- (c) The Vancouver Board of Trade submits that there should be no statutory rates and that rates under the Act should be subject to review by the Board;
- (d) The British Columbia Fruit Growers' Association is of opinion that the rates in the Maritimes should be "returned to the jurisdiction of the Board";
- (e) The British Columbia Feed Manufacturers' Association suggests that all statutory rates should be subject to change by the Board to reflect changes in economic conditions; and
- (f) Submissions coming from the Maritime Provinces are to the effect (i) that the percentage (20%) reduction is now inadequate and should be increased (although no definite amount was stated); (ii) that the reduction should apply to eastbound goods coming into New Brunswick and Nova Scotia to be processed; (iii) that the reductions should apply eastbound especially on goods protected by customs tariffs; (iv) that if the "statutory advantages" have been prejudiced by horizontal increases the Act should be amended to allow the Board to provide the necessary relief; (v) that the Act does not improve the position of the consumer in the Maritimes; (vi) that horizontal increases have disturbed rate relationships established under the Act.

14. In a brief submitted by the Furness Red Cross Line, the Furness-Warren Line and the Newfoundland Canada Steamship Line it was stated that the extension of the Act to Newfoundland gives rail traffic an advantage over steamship lines, and that the Act should be made applicable to water shipments to Newfoundland so that steamships could be subsidized, in a manner similar to the railways, i.e. by the payment of the difference between the "normal" tolls and the reduced tolls published in the tariffs pursuant to the Act.

## CONCLUSIONS

*Complaint No. 1 Regarding Truck Competition.* In effect, what is asked for here is that if a competitive rate is published the Board should make whatever adjustment of the rates under the Maritime Freight Rates Act may be necessary to maintain the advantages of the select territory even against truck, and not only railway, competition elsewhere. In such case the railways would probably decide not to reduce tolls to meet competition, and the persons and industries in the Maritimes would be no better off because the producers in Central Canada could still transport their goods by truck.

The proposed amendment is subject to two objections: (1) it would ensure to the Maritimes all the competitive rates regardless of whether or not there was competition for the railways in the select territory, and would thus confer an additional advantage to persons and industries not intended by the Act, and (2) it would be contrary to the rate-making principle that competitive rates are in the discretion of the railways and are put in force to preserve at least some of the traffic to the railways.

The persons and industries in the select area are sufficiently protected in this respect by the Act as it now stands. If they can show that a rate put into effect outside of the select territory prejudices or destroys the statutory advantages of persons or industries in the select territory they can apply to the Board for the cancellation of the rate. This question is one of fact to be decided in each case on the particular merits involved. The statute is an extraordinary one and gives advantages which Parliament should not be asked to extend in the absence of the most compelling reasons. They should not be extended for purposes which cannot be brought within the intention of Parliament as set out in the preamble to the original Act.

The *complaints and suggestions comprised in paragraphs numbered 2, 3, 4 and 5* under the heading "Complaints and Suggestions" may be treated as being of one category. They all ask for an extension of the subsidy provisions of the Act or a reduction in the tolls under the Act either (a) by making the reduction apply to a longer portion of the through haul, or (b) by increasing the amount of the reduction from 20% to 30%, or (c) by applying the reduction to eastbound as well as westbound traffic, or at least on certain eastbound articles of traffic.

Nothing put before the Commission warrants a recommendation of such extensions of the Act. The proposals overlook the basic intent and purpose of the Act.

As has already been pointed out the reasons for the enactment of the statute are expressed in its preamble. The object of the calculation which led to the adoption of the 20% reduction in rates was to restore the advantages of the rates, lower than those in force in the other parts of Canada, which the Maritimes had enjoyed prior to 1912. It is to be observed that in the report of the Duncan Commission the following statement was made: "We think that this broad measuring, *once and for all*, of these considerations has such advantages that it should not be qualified or delayed by minor criticisms".

A change in the 20% reduction would be an unwise departure from the theory employed by the Duncan Commission in arriving at the remedy which it proposed.

The extension of the reduction beyond the limits of the Eastern lines would likewise be a disregard of the whole basis on which the Act was recommended and passed.

To apply the reduction to eastbound traffic would be to change the purpose set out in Section 8 of the Act which is to confer advantages *in rates* to persons and industries in the select territory. The claims made regarding pre-Confederation promises were that the Intercolonial Railway would enable the Maritime



merchants, traders and manufacturers to get into the Central Canadian market. There was no claim that the "consumers" were to benefit, and the Statutory Preference was not intended for that purpose. The claims made were that the merchants, traders and manufacturers were promised these markets, that the higher freight rates put in between 1912 and 1925 had prejudiced them, and that the rate advantage of 20% on westbound traffic was needed to restore the advantage.

*Suggestion No. 6*, concerning the steamship service between Digby, N.S., and Saint John, N.B.: The Act in its original form applied only to the two car ferries operated by the Canadian National Railways between Prince Edward Island and New Brunswick and between the mainland of Nova Scotia and the Island of Cape Breton. Both of these car ferries are rail links of the Inter-colonial Railway. They are the only links between these islands and the mainland.

By Section 4(2) of the Act traffic moving over these car ferries is treated as all-rail traffic. The principle involved is clear. A narrow strip of water separated the islands in each case from the mainland, and it was undoubtedly felt that this situation should not adversely affect rail traffic or the rate payable by persons on the prespective islands.

When Newfoundland became a part of Canada in 1949, it was provided by the Terms of Union that "for the purpose of railway rate regulation the Island of Newfoundland will be included in the Maritime Region of Canada, and through traffic moving between North Sydney and Port aux Basques will be treated as all-rail traffic," and the Statute Law Amendment (Newfoundland) Act made similar provision (Section 13). While it is true that in the case of the service between North Sydney and Port aux Basques the railway cars are not ferried, there was nevertheless a sound reason for dealing with the matter in this way. Newfoundland was coming into Canada as a new Province, and it seemed altogether proper to provide for it what can be deemed to be an "all-rail link" to unite it with the rest of Canada, as in the case of Prince Edward Island.

The steamship service operated by the Canadian Pacific Railway Company between Saint John and Digby does not fall within the same category as the three "all-rail routes" above referred to, nor are there the same compelling reasons for making it or deeming it to be an all-rail route. For all practical purposes the routes across the Northumberland and Canso Straits are all-rail routes; the route across the Cabot Strait was made all-rail for the reasons given above. No circumstances exist which would warrant the according of such special treatment to the steamship service between Digby and Saint John.

If an extension of the Act were made in this case it would lead to the demand for a similar concession in favour of the steamship services operating from point to point within the area, and this would enlarge the scope of the Act beyond, not only what was originally intended, but what is required.

It is significant that in the case of Newfoundland the "all-rail" measure was applied to only one route, that between North Sydney and Port aux Basques, although there are several other passenger and freight services by steamships between the Island and other provinces.

*Suggestion No. 7*: All parties agreed that the omission of rail and lake movements beyond Levis was an oversight, and since the practice is to apply the rates to such movements, the Act should be amended to provide that traffic moving outward westbound rail-and-lake and also rail-lake-and-rail from points on the

Eastern lines westbound to points in Canada from ports beyond the limits of the Eastern lines at Diamond Junction or Levis, be treated as preferred movements.

*Suggestion No. 9:* This is the amendment intended to provide that the Board may adjust or vary tolls in the select area when, in its opinion, it is necessary to do so to give effect to any general readjustment of rates in Canada. It is proposed in view of the general freight rates investigation now being conducted by the Board. The Order in Council calling for this investigation, P.C. 1487, was issued in April 1948, eight months before this Commission was appointed. One of its purposes is to secure the equalization of freight rates, but it expressly excludes from this equalization such rates as are now governed by Statute. These are the Crowsnest Pass rates and the rates established under the Maritime Freight Rates Act. Shortly after Order-in-Council P.C. 1487 was issued the question of possible amendments to legislation in order to make equalization more effective was dealt with between the government and the Board. Under these circumstances it is best to leave matters as they stand and no recommendation by this Commission appears to be called for.

*Suggestion No. 10:* Section 6 of the Act should be repealed because it apparently serves no useful purpose and is not being complied with.

*Complaints and Suggestions No. 13:* The proposal that the rates under the Act should be subject to change by the Board otherwise than under its present practice cannot be recommended. The Act was designed to meet a peculiar set of circumstances and should in the language of the Duncan Report be regarded as a broad measure "*once and for all*" to fulfil the pre-Confederation promises, and it has performed and continues to perform the functions for which it was designed. Only under the most imperative conditions should it be extended or altered.

The question of the application of horizontal increases as a method of increasing freight rates is dealt with separately in this report. No good purpose can be served by including a discussion of such a question in the consideration of amendments proposed to the Maritime Freight Rates Act. If any horizontal increase is alleged to affect prejudicially the advantages conferred by Section 8 of the Act upon any industry or person within the Select Territory it is open to the person who alleges the prejudice to raise the question concerning his legal rights before the proper tribunals. The question whether the disturbance of rate relationships produces such a prejudice should also be determined in the same way.

*Suggestion No. 14:* There can be little doubt that the extension of the Act to Newfoundland did give to rail traffic an advantage over steamship lines. Information shows, however, that fairly satisfactory working arrangements have been made between the Railways and the Steamship Companies which alleviate to some extent the state of affairs created by the treatment of the water movement between North Sydney and Port aux Basques as all-rail traffic. In any event this is a situation which Parliament should not attempt to correct by an amendment to the Maritime Freight Rates Act. The Act was not designed as a subsidy Act except to compensate the railways for the statutory reduction in their tolls. If the steamship companies can show that they are in need of subsidies and that the service they provide is an essential one, the course for them to adopt is to apply to the Canadian Maritime Commission. Each case will undoubtedly be considered there on its own particular merits. The subject is not one to be considered in this study of the working of the Maritime Freight Rates Act.

## RECOMMENDATIONS

1. It is recommended that Section 4(1) of the Maritime Freight Rates Act be amended by adding thereto a new clause (d), which will confirm the present practice of the Board and of the railways. This amendment will read as follows:

“(d) Traffic moving outward westbound rail-and-lake, and also rail-lake-and-rail from points on the Eastern lines westbound to points in Canada via ports beyond the limit of the Eastern lines at Diamond Junction or Levis; for example, Moncton to Winnipeg via the port of Point Edward thence via water to Port Arthur or Fort William—the twenty per cent shall be based upon the Eastern lines proportion of the through rate for the rail mileage from Moncton west as far as Diamond Junction or Levis.”

2. It is recommended that Section 6 of the Maritime Freight Rates Act be repealed. In this case also the repeal is intended to bring the Act into conformity with the practice now followed.

3. It is not recommended that the Act be amended in any other particular.

## CHAPTER X

### CROWSNEST PASS RATES

The rates known by this name form an important part of our freight rate structure. They owe their existence to action taken by Parliament, more than half a century ago, intended to assist the grain-growing industry of the Prairies. This industry gave promise at that time of becoming (as it has since become) a major factor in the economy of Canada, provided the producers were given the benefit of favourable transportation costs for the bringing in of their essential supplies and for the taking out of their products to distant world markets. Parliament acted by authorizing the making of a contract between the Government of Canada and the Canadian Pacific Railway Company, one of the terms of which was to be the fixing of these freight rates. Fuller particulars of this contract, which was concluded in September, 1897, will be given in the following pages.

The scope and application of the Crowsnest Pass Rates have been greatly altered since they first became effective. They are at present in force, (partly by statute, partly by Order of the Board of Transport Commissioners, and partly by action of the railways themselves, as will appear), in respect only to shipments of grain and flour and certain other grain products, and they are held at a level which is 3 cents per 100 pounds less than the rates charged by the Canadian Pacific Railway Company in September, 1897, on shipments of grain and flour from all points on its main line on the Prairies west of Fort William and Port Arthur, and they apply as follows:

- (a) To shipments of grain and flour moving from all points on all lines of railway west of Fort William to Fort William and Port Arthur over all lines constructed by any company subject to the jurisdiction of Parliament;
- (b) To shipments of grain and flour moving from Prairie points to Westfort and Armstrong;
- (c) To shipments of grain and flour from Prairie points to Vancouver and the other Pacific ports for export. (But in this case the distance from Calgary to Vancouver via the Canadian Pacific Railway is assumed to be the same as the distance from Edmonton to Vancouver, that is, 766 miles instead of the actual distance of 642 miles);
- (d) To shipments of grain and flour moving from Prairie points over the Hudson Bay Railway to Churchill for export;
- (e) To shipments of certain by-products of the milling, distilling and brewing industries, and also certain feed products, not included, by strict interpretation, within the meaning of "grain" and "flour" in the foregoing paragraphs (a), (b), (c) and (d);
- (f) These Crowsnest Pass Rates have a further indirect application in that they serve to keep down the rates on domestic grain and flour shipments within Western Canada. The railways were not allowed to apply the recent freight rate increases to western domestic rates on these articles because the Board thought that such an increase would produce too great a spread between the two sets of rates.

The particulars of the 1897 Contract may now be set out in so far as they are essential to the problem.

In 1897 the Canadian Pacific Railway Company desired to build a railway from Lethbridge (then in the Northwest Territories and now in Alberta) through the Crowsnest Pass into Nelson, British Columbia, and was in need of financial

assistance for this enterprise. The Government was authorized by Parliament to grant this assistance in the form of a subsidy of \$11,000 per mile of railway built, the subsidy not to exceed in the aggregate the sum of \$3,630,000. The Company in consideration of receiving this financial assistance entered into certain covenants with the Government, three of which related to freight rates. The first of these had to do with the control of certain rates, and will be dealt with further on in this chapter. The others made provision for those rates which became known as the Crowsnest Pass Rates, and are as follows:

“(d) That a reduction shall be made in the general rates and tolls of the Company as now charged, or as contained in its present freight tariff, whichever rates are now the lowest, for carloads or otherwise, upon the classes of merchandise hereinafter mentioned, westbound, from and including Fort William and all points east of Fort William on the Company's railway to all points west of Fort William on the Company's main line, or on any line of railway throughout Canada owned or leased by or operated on account of the Company, whether the shipment is by all rail line or by lake and rail, such reduction to be to the extent of the following percentages respectively, namely:

Upon all green and fresh fruits, 33 $\frac{1}{4}$  per cent;

Coal oil, 20 per cent;

Cordage and binder twine, 10 per cent;

Agriculture implements of all kinds, set up or in parts, 10 per cent;

Iron, including bar, band, Canada plates, galvanized, sheet, pipe, pipe-fittings, nails, spikes and horse shoes, 10 per cent;

All kinds of wire, 10 per cent;

Window glass, 10 per cent;

Paper for building and roofing purposes, 10 per cent;

Roofing felt, box and packing, 10 per cent;

Paints of all kinds and oils, 10 per cent;

Livestock, 10 per cent;

Woodenware, 10 per cent;

Household furniture, 10 per cent;

“And that no higher rates than such reduced rates or tolls shall be hereafter charged by the Company upon any such merchandise carried by the Company between the points aforesaid; such reductions to take effect on or before the first of January, one thousand eight hundred and ninety-eight;

“(e) That there shall be a reduction in the Company's present rates and tolls on grain and flour from all points on its main line, branches, or connections, west of Fort William to Fort William and Port Arthur and all points east, of three cents per one hundred pounds, to take effect in the following manner: One and one-half cents per hundred pounds on or before the first day of September, one thousand eight hundred and ninety-eight, and an additional one and one-half cents per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-nine; and that no higher rates than such reduced rates or tolls shall be charged after the dates mentioned on such merchandise from the points aforesaid.”

The line of railway was built, the Government paid the Company a subsidy of \$3,404,720, and the Agreement concerning freight rates became fully effective on September 1, 1899.

In the controversy which arose upon the subject of these Crowsnest Pass rates the Commission was asked to give due weight to the advantages, apart from the bare amount of the subsidy, which the company expected to acquire, and did acquire, by entering into this agreement with the Government. It is, of course, certain that the company did not build the railway merely for the sake of the subsidy. The real value of the subsidy was that it enabled the company to construct a line which gave it an all-rail link between its main line and the Kootenay region, and thus assured it of a railway monopoly throughout a large territory believed to be rich, particularly in mineral resources, and which might otherwise have been traversed by American lines. Moreover, the completion of the line entitled the company to a grant from the Government of British Columbia of 250,000 acres of land in that Province; but here it must be noted that, out of this grant, the company agreed to convey, and did convey, 50,000 acres of coal-bearing lands to the Government of Canada.

The effect of the Agreement on the rates payable on shipments of grain and flour may be illustrated in going along by taking as an example the shipping point of Regina on the Company's main line. The rate of shipment from Regina to Fort William in September 1897 was 23 cents per 100 pounds. On September 1, 1899, this rate was reduced, in accordance with the Agreement, to 20 cents. It is 20 cents again today and has so been since July 6, 1922; but in the years between 1899 and 1922 certain changes occurred in the level of this rate which must be recorded.

The rate of 20 cents per 100 pounds from Regina remained in effect from September 1899 until October 1903, when it was reduced to 18 cents. This reduction was made by the Company in order to meet competition in its grain and flour traffic caused by the granting by the Canadian Northern Railway of a rate on these shipments lower than the Crowsnest Pass Rate. This action of the Canadian Northern Company was taken as the condition of a contract between that Company and the Government of Manitoba with which it is not necessary to deal at further length.

This rate of 18 cents per 100 pounds from Regina to the head of the lakes (with, of course, corresponding rates from all other Prairie shipping points) remained in force for a period of about fifteen years, that is until June 1st, 1918, when, the reason for the lower competitive rate having come to an end with the disappearance of the Manitoba-Canadian Northern Agreement above referred to, the Canadian Pacific Railway Company raised the Regina rate back to the 20 cent level authorized by the Crowsnest Pass Agreement.

During the final period of the Great War the necessity of increasing railway rates in Canada forced itself upon Parliament and the country. As a result of greatly increased wage costs, which followed upon the making of the McAdoo Award in the United States in 1918, the Board of Railway Commissioners was directed by the Government to prepare a new schedule of all freight rates and this schedule, providing increases, was made effective on August 12, 1918, by an Order in Council passed under the War Measures Act. The general increase amounted to approximately 25 per cent, and the grain and flour rates were raised above the Crowsnest Pass level, bringing the Regina rate to 24 cents. This suspension of the Crowsnest Pass rates was ratified by Parliament in the Session of 1919 by an amendment to the Railway Act, but the amendment contained a proviso limiting the period of suspension to three years. These three years began to run on July 7, 1919.

The record shows that Parliament's consent to this suspension of the Crowsnest Pass rates and of certain other rates limited at that time by various contracts

was not obtained without considerable discussion. The presentation to the House of Commons explaining the reasons for the suspension was made by the Prime Minister in the following language:

"In view of the enormous increase in the cost of operation due to the increased cost of material and labour we found it absolutely necessary to pass the Order in Council which has been laid down upon the table of the House, enabling rates to be raised, notwithstanding the existence of agreements such as have been mentioned here this morning. We had our choice between the bankruptcy and cessation of operation of the railways and taking that step. There was absolutely no alternative. It was a difficult alternative and we were obliged to act according to our idea of what was best in the public interest."

The statement added that the Chairman of the Board of Railway Commissioners had made it abundantly clear that the Board could not function properly because it could not establish a uniform system of rates throughout Canada if it was restricted, in fixing rates commensurate with the necessity of having the railways operated, by the existence of agreements setting rates over which the Board had no control.

The rate of 24 cents from Regina remained in effect until September 13, 1920, when it was increased to 32.5 cents. On January 1, 1921, it was changed to 31 cents and on December 1, 1921, to 29 cents. Finally on July 6, 1922, the suspension period having expired, it returned to 20 cents, the Crowsnest Pass Agreement level, where as previously stated, it has since remained.

Much confusion existed between 1922 and 1925 as to the interpretation of some parts of the Agreement of 1897, and certain litigation was carried on. No useful purpose would be served here by a narration of these proceedings and it will be preferable not to take time to go into them.

It is in order now to revert to the wording of the two covenants respecting freight rates set out in full above and entered into by the Canadian Pacific Railway Company in 1897. One of these relates to certain traffic westbound in a large number of articles and the other, of which the history has just been traced, to eastbound shipments of grain and flour. It will be noted that the terms of the Agreements place no limitation of time upon the duration of the covenants. In the one case it is stated that "No higher rates than such reduced rates or tolls shall be hereafter charged by the Company", and in the other the words used are "No higher rates than such reduced rates shall be charged after the dates mentioned". As has been said throughout our proceedings, the Company bound itself to maintain these rates "in perpetuity".

But Parliament, of course, has always remained free to legislate in respect to the matters contained in the Agreements, and to make such modifications therein as public policy might seem to require from time to time. It has thus been seen that these rates were increased very considerably for a period beginning in 1918; and the increase applied to both eastbound and westbound traffic.

In 1925 Parliament made a readjustment of these Crowsnest Pass Rates by legislation which altered the position of the Canadian Pacific Railway Company in two respects. In the first place the legislation relieved the Company definitely of its obligation to maintain reduced rates on certain westbound traffic, and since then the rates on this traffic have been and still are subject only to the authority of the Board of Transport Commissioners.

In the second place the legislation extended the Company's obligation respecting eastbound rates on grain and flour by making it apply, not only to traffic moving from points on the Company's lines in existence when the contract was made, as was provided in 1897, but to all the Company's lines west of Fort William whenever constructed.

In addition to its effect upon the position of the Canadian Pacific Railway Company under the 1897 Agreement, the legislation affects all other lines of railway in the West, by making the Crowsnest Pass Rates apply to all traffic in grain and flour moving eastward from points on these lines as well as on the Canadian Pacific lines.

The provision of the Railway Act which deals with the powers of the Board of Transport Commissioners "to fix, determine and enforce just and reasonable rates" is sub-section 5 of Section 325. The legislation of 1925, which has just been discussed, took the form of a proviso to sub-section 5 and a new sub-section 6 which reads as follows:

"Provided that, notwithstanding anything in this subsection contained, rates on grain and flour shall on and from the twenty-seventh day of June, one thousand nine hundred and twenty-five, be governed by the provisions of the agreement made pursuant to chapter five of the Statutes of Canada 1897, but such rates shall apply to all such traffic moving from all points on all lines of railway west of Fort William to Fort William or Port Arthur over all lines now or hereafter constructed by any company subject to the jurisdiction of Parliament."

"6. The Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities or of undue or unreasonable preference, respecting rates on grain and flour, governed by the provisions of chapter five of the Statutes of Canada 1897, and by the agreement made or entered into pursuant thereto within the territory in the immediately preceding subsection referred to, on the ground that such discrimination or preference is justified or required by the said Act or by the agreement made, or entered into pursuant thereto."

In so far, therefore, as statutory limitations, (or what from the shipper's point of view might be called statutory safeguards), are concerned in respect to the rates applicable to shipments of grain and grain products, there are none other than those expressed in the above mentioned legislation, and they apply only to shipments of grain and flour moving eastward to Fort William and Port Arthur from points on all lines of railway West of Fort William. Rates on movements westward or northward, or on products of grain other than flour in any direction, are not mentioned in the Statute. Whatever extensions have been made in these latter respects result from action of the Board of Transport Commissioners or of the railways themselves. This aspect of the subject will now be referred to briefly.

The extent to which the application of these Crowsnest Pass Rates is at present effective has been set out earlier in this chapter in six paragraphs lettered (a), (b), (c), (d), (e), and (f). In nearly all these cases the application goes beyond the express statutory provision in one or more points and is due to action of an "extensive" character taken by the Board or by the railways themselves.

In the first place attention is to be called to paragraph (a). The Agreement of 1897 provided that rates on grain and flour should be kept at a reduction of 3 cents per 100 pounds below the rates then charged from points on the Company's main line, branches or connections. At that time some branch line rates were higher than those of the main line at points equally distant. The 3 cent reduction, when applied to each of these rates, left a disparity between them, and there was nothing in the Agreement or in the legislation of 1925 to prevent the continuance of the disparity, and it did continue until the Board put an end to it in 1927, in response to a complaint made by some branch line shippers. The provisions of paragraph (b) respecting shipments to Westfort and Armstrong and of paragraph (c), which extends the rates westward on shipments to the Pacific ports, were made by final order of the Board in 1927. The extension of the rates to shipments to Hudson Bay (paragraph (d)) was made by the Canadian National Railways, and their extension to certain by-products of the milling,



distilling and brewing industries, and to certain feed products, (paragraph (e)), is due to the action of the railways who decided that they could not reasonably expect to receive a higher rate on shipments of the inferior products of grain than those charged on flour. It has already been stated, (paragraph (f)), that the existence of these rates on through shipments of grain and flour caused the Board to refuse permission to the Railways to apply the recent rate increases to domestic shipments of these articles in Western Canada.

It is apparent from the foregoing that the legislation of 1925 may be said to be only the basis of the present Crownsnest Pass Rate system, because that system has grown in range and substance far beyond the strict provisions of the Statute. It extends now, in respect to these shipments from the Prairies, to all railway territory bounded by the Great Lakes, the Pacific Ocean and Hudson Bay, and carries with it the incidental effects on certain other rates already referred to. This expansion in the application of these rates was inevitable because it appears to have been a natural outcome of the situation created by the Statute. The Board, and the Railways themselves, in 1927 and later, were bound to take action, as they did, to remove the anomalies resulting from the existence of different rates on movements in different directions (and in some cases from different Canadian Pacific Railway points in the same direction), of grain and flour leaving the Prairies for export. It seems altogether probable that the present arrangement, which provides equal treatment to all shippers, will continue to prevail so long as the Statute remains in force.

The Commission has been asked to recommend that the Statute be repealed. This proposal comes in the first instance from the Canadian Pacific Railway Company which says:

- (1) That it is desirable that freight rates without exception should in all respects be subject to the jurisdiction of the Board of Transport Commissioners, and,
- (2) That, while the national policy may require special assistance to producers of grain in Western Canada, such assistance should not be given at the cost of other users of railway services or at the cost of the railways.

It is assumed in this presentation by the Canadian Pacific Railway Company that the Crownsnest Pass rates on grain and flour have always been a burden either upon the railways or upon the shippers and consignees of other commodities.

The Company's assumption in this respect is not borne out by the facts. During the first period in the history of the Crownsnest Pass rates, that is from the coming into force of the Agreement of 1897 up to 1918, these rates cannot be said to have been a burden on anybody. After having been in effect for about four years, they were reduced by the company itself in 1903 to the lower competitive level already referred to which remained in force for about fifteen years, that is, until the competition came to an end in 1918. These competitive rates would have prevailed throughout this long period even if the Crownsnest Pass Agreement had never been made. Then followed the period of suspension ending in July 1922, during which, of course, these Crownsnest Pass rates were not in effect. As to the situation which has prevailed since then, the Canadian Pacific Company's statement says:

"After 1922, however, when the Crownsnest Pass Rates were restored, the probability is that the greater burden imposed by the low level of these rates has fallen upon shippers and consignees of other traffic."

In support of its submission in favour of the repeal of the Crownsnest Pass legislation, the Canadian Pacific Railway Company asserts among other things that:

"Under present conditions the Crownsnest level of grain rates is not compensatory."

No useful attempt could be made to test the accuracy of this assertion within reasonable bounds of time and expense. The problem implies the determination of the costs attributable to the handling of a particular commodity, or the performance of a particular service, by a railway which handles a great variety of commodities and performs services of many kinds. Nevertheless, the Canadian Pacific Railway Company, while admitting the great difficulty of the task, endeavoured to furnish the Commission with an approximation of the cost of transporting the western grain crop. For this purpose a study was submitted by the Company which, it was said, had required in its preparation the application of more than 10,000 man-hours (4 man-years). The year selected for this study was 1948.

It is probable that this study, which the Company's officials prepared with the expenditure of much time and the application of great expert knowledge, contains information which the Company will find valuable for its own purposes. But the difficulty of the task undertaken is shown by the fact that, after applying to the problem the formulae which appeared to them the most appropriate, the Company's experts could arrive at no more definite conclusion than that stated in the Company's brief: "Therefore, while the exact dollar deficiency from the Crowsnest grain rates in Western Canada is not available, it will be seen that it is somewhere between \$13,769,000 and \$16,947,000". And the time taken and the skill employed in arriving at this indefinite result covered the operations of only one year (1948). The study does show a minimum deficit of a high figure; but it is not possible to say what might be the product of the application of some other formulae asserted to be more accurate.

When the Company submitted this study and asked the Commission to find upon the strength of it that the Crowsnest rates are not compensatory, its claim was challenged by counsel for the Prairie Provinces who took the position that, if cost accounting of this sort was to be gone into, they would ask permission to examine the Company's evidence and to make a study of their own covering not only one year, but a much longer period. Since the Company's position was to place the maintaining of the rates in jeopardy on the ground that they are not compensatory, and the Prairie Provinces are interested in having the rates maintained, the claim of the latter to the right to meet the Company's case by having it submitted to expert examination and by setting up their own case in answer to it, could not reasonably be denied. But the determination of an issue of this nature, one of contentious accounting in a matter of great complexity, would have involved the Commission in proceedings of such length and such great expense, that it would not have been in the interests of all concerned to embark upon it. It seems now that the Commission acted properly in making this decision, not only because of the saving of time and expense, but also and principally because, as will appear later on, the determination of the question of whether or not these rates are in fact compensatory is not of essential significance to the proposals the Commission intends to make concerning their future treatment. These proposals should be adopted regardless of whether these rates are or are not themselves compensatory.

In dealing with this subject up to this point the Commission has adopted the language generally used in discussing it and which, by repeated reference to the Agreement of 1897, conveys the idea that the matter is still essentially one of deciding whether or not the Canadian Pacific Railway Company should continue to be bound by a contract which, in its opinion, has become unreasonably onerous. And in the same manner this other idea is conveyed, viz., that the Canadian National Railway Company has been compelled, perhaps unfairly, to apply rates arising out of a contract to which it was not a party.

The present position of this subject, having regard to the many years which have passed and the many changes which have occurred since 1897, and to the attitude which Parliament and the Government have taken in respect to these rates on numerous occasions throughout this long period when reaching decisions affecting national policy, is not as outlined in the above paragraph. It was affirmed on behalf of the Government so far back as in 1925 that Parliament, in dealing with the Crowsnest Pass rates, found itself confronted not with a contractual theory but with a condition. The fact is that the real intention of the amendment of Section 325 of the Railway Act passed in 1925, and already quoted, was to put an end to the Agreement of 1897 as between the parties to it (the Government and the Canadian Pacific Railway Company) and to prescribe instead a statutory stabilisation of certain freight rates binding on all railways, in order to meet a condition then existing, a condition which was foreseen in 1897 and which had come into being during the many years the contract was in force and very largely through the operation of that contract. It seems clear that the reference made to the Agreement of 1897 in the legislation of 1925, and still in the statute, was intended merely to be descriptive of the rates which Parliament was prescribing for use thereafter on all lines of all railways in the area mentioned.

In presenting the aforesaid amendment of the Railway Act to Parliament in 1925 the Minister of Railways and Canals said:

"This Bill is a bold piece of legislation in order to get rid, not only of the Crowsnest Pass Agreement, but of a score of agreements all of more or less importance . . . We are trying . . . to get rid of a number of agreements—and we have a number of agreements on the Intercolonial, some of small importance, some of greater importance—in order to give the Board of Railway Commissioners a fair chance."

The Minister then presented the Bill drafted in the language which is now that of the proviso to sub-section 5 and of sub-section 6 of Section 325 containing the reference to the Agreement of 1897. It is clear from all this that the intention was to terminate the Agreement itself but to adopt the rates which had come into existence under it, and which had come to be known by reference to it, as the permanent basis of charges to be made thereafter on all shipments of grain and flour moving eastward from the Prairies.

In the same year, 1925, and before introducing the legislation just discussed, the Government issued an Order in Council (P.C. 886) directing the Board of Railway Commissioners to investigate the rate structure of the railways of Canada in order to bring about equalization of rates between persons and localities "under substantially similar circumstances and conditions". The wide field of investigation and action opened up to the Board under this Order in Council was limited only by the exclusion from it of the Crowsnest Pass rates on grain and flour. The language of the relevant parts of the Order in Council is as follows:

"The Committee are of the opinion that the policy of equalization of freight rates should be recognized to the fullest possible extent as being the only means of dealing equitably with all parts of Canada, and as being the method best calculated to facilitate the interchange of commodities between the various portions of the Dominion, as well as the encouragement of industry and agriculture and the development of export trade."

"The Committee are further of the opinion that as the production and export of grain and flour forms one of the chief assets of the Dominion, and in order to encourage the further development of the great grain growing Provinces of the West, on which development the future of Canada in large measure depends, *it is desirable that the maximum cost of the transportation of these products* should be determined and known, and therefore are of opinion that the maximum established for rates on grain and flour, as at present in force under the Crowsnest Pass Agreement, should not be exceeded."

"The Committee are further of the opinion that, before such investigation is undertaken it is essential to ensure that the provisions of the Railway Act in reference to tariffs and tolls, and the jurisdiction of the Board thereunder, be unfettered by any limitations *other than the provisions as to grain and flour hereinbefore mentioned.*"

Direction to the like effect is found in Order in Council 1487 of April 7, 1948, which instructs the Board to proceed towards equalization in terms which are in part as follows:

" . . . it is therefore advisable that the Board of Transport Commissioners for Canada be directed to make a thorough investigation of the rates structure of railways and railway companies which are under the jurisdiction of Parliament, with a view to the establishment of a fair and reasonable rates structure which will, under substantially similar circumstances and conditions, be equal in its application to all persons and localities so as to permit the freest possible interchange of commodities between the various provinces and territories of Canada and the extension of Canadian trade both foreign and domestic, having due regard to the needs of agriculture and other basic industries."

"The Committee, accordingly, advise that the Board of Transport Commissioners for Canada be directed to undertake a general freight rates investigation along the lines indicated in the preceding paragraph *subject to such special statutory provisions as affect freight rates.*"

The special statutory provisions here referred to are the amendment to the Railway Act in 1925 fixing rates on grain and flour and The Maritime Freight Rates Act of 1927.

This reservation in the Orders in Council accords with the attitude taken by those who spoke for the Government in the debate on the legislation of 1925: That, with the lapse in years since 1897 and the condition which had developed, the contract was no longer between the Canadian Pacific Railway Company and the Government, but between the Government and the people of the Prairies.

Twenty-six years have gone by since 1925; it is now fifty-two years since the Crowsnest Pass Rates became fully effective. The rates on grain and flour from the Prairies have never been higher than those fixed in the Agreement, excepting during the suspension of nearly four years brought on by the imperative necessities of the Great War.

It has been stated earlier in this chapter that the Agreement of 1897 contained in addition to these "Crowsnest Pass Rates" covenants entered into "in perpetuity", another provision respecting the control of certain rates. By this term of the agreement the Canadian Pacific Railway Company consented to a partial waiver of the statutory right which it then enjoyed to impose such rates as it pleased, without control of any kind, so long as its revenues did not exceed what was required to pay dividends of ten per cent on its stock. The Minister of Railways and Canals in introducing the legislation said:

"There is a widespread feeling throughout Western Canada, and I think, shared in by the people of the eastern part of Canada, that the agreement which permits the Canadian Pacific Railway Company to impose such schedule rates as it pleases, so long as it does not show sufficient excess of revenue to pay a dividend of 10 per cent on stock, is a condition of things . . . which is believed to be a very great burden upon the people of the western country, from which for a long time they have hoped to secure some relief."

The Agreement provided in this regard that the local tolls on the proposed railway, and between points on it and points on the company's main line throughout Canada should be under the control of the Government or of any railway commission which Parliament might thereafter set up.

After describing this freight rate concession obtained from the Company the Minister said:

"That is a most important concession, one which I consider worth a very large amount of money, and one which I think the people of the western country will highly value; and if hon. gentlemen who object to this arrangement had been negotiating with the Canadian Pacific Railway Company on the subject, they would be satisfied that the Canadian Pacific Railway people at all events regarded it as a very important concession, that they valued it at a large amount of money, and that they only yielded when they found the Government determined that they should not get any financial assistance from the Government of Canada unless they consented to the terms which we demanded."

These various freight rate provisions of the Agreement of 1897, taken together, were looked upon by Parliament as constituting a measure of great and lasting importance. They were said to be "at once the announcement and the commencement of a new national policy". It was pointed out, in respect to the Crowsnest Pass rates, that their primary intention was to relieve the people then in the West of a grievous burden, with the further expectation that they would induce a great increase in the population of the Prairies and the development of an industry which it was in the interest of all Canada to foster.

The only serious criticism which this announced policy received was that it did not take enough from the Company to compensate for the valuable monopoly which the company was receiving and that the reduction of 3 cents per 100 pounds on grain and flour was too small in comparison with the lower rate then being negotiated by the Government of Manitoba with another railway company. This is the lower rate which became effective upon the completion of the other line in 1903 and which caused the Canadian Pacific Railway Company to reduce its Crowsnest Pass rate in order to meet the competition.

Since 1897 Western Canada has grown and has become the great economic factor in our national life that its own people and the Government and Parliament of Canada foresaw in 1897. The great increase in the population of the Prairies and the remarkable development of its grain growing industry since that time have been accompanied and fostered throughout the years by the assurance of permanency in the important factor of transportation rates to world markets.

These rates have been criticized on the ground, among others, that they are now out of relationship with the price of wheat, having regard to the comparatively high price at which that commodity is now selling. The price of wheat varies greatly according to world conditions. In 1897, when the Agreement was concluded, it was 99 cents per bushel. In 1899 it was 70 cents per bushel. In 1932 it averaged less than 55 cents per bushel. For the last five-year period which ended on July 31, 1950, farmers were paid \$1.75 per bushel. In 1922 and again in 1925, when Parliament confirmed its control of grain and flour freight rates, prices were in a range of \$1.50 to \$2.00 per bushel. If any relationship can be said to exist between prices and rates, the action of Parliament on these occasions must mean that this relationship was considered to be on a fair basis at these prices.

Whatever the price of wheat may be, the greater part of the crop has to make the long voyage each year to faraway markets. And in leaving the Prairies it travels by railway; no other transportation agency is available to it.

For many years now it has been a recognized factor of Canadian transportation policy that the hardships arising from our necessarily long east-and-west railway haul have been tempered along the way by four great measures of relief: The Maritime Freight Rates Act in the Atlantic Region, the toll-free canals in Central Canada, the competitive transcontinental railway rates at the Pacific coast, and the Crowsnest Pass rates in the Prairies.

It is interesting to note in this regard how conditions have altered in recent years. In the parliamentary debate of 1925 already referred to, water competition was held up as the great transportation advantage enjoyed by Central Canada in comparison with the Prairies. Nothing was said about the motor truck. This new factor in transportation was close at hand at that time but had not yet begun to make itself felt as a competitor to the railways. Its growth since 1925 has been remarkable and has forced the railways to make widespread reductions in their freight charges in Ontario and Quebec.

It will be of value at this point to summarize the views which were expressed before the Commission concerning the future of the Crowsnest Pass rates by provincial governments and by various organizations and individuals who dealt with the subject.

The following favour the retention of the statutory control of these rates:  
The Governments of Manitoba, Saskatchewan, Alberta and New Brunswick;  
The City of Winnipeg and the Winnipeg Chamber of Commerce;  
The Manitoba Federation of Agriculture and Co-operation;  
The Alberta Federation of Agriculture;  
The Transportation Commission of the Maritime Board of Trade;  
The Fort William and Port Arthur Chamber of Commerce;  
The Canadian Federation of Agriculture;  
The Canadian Congress of Labour;  
The Wheat Pools of Alberta, Saskatchewan and Manitoba;  
The United Grain Growers;  
The Chambers of Commerce of Calgary and Edmonton;  
Mr. E. J. Young, a former director of the Canadian National Railways.

Among those named above as being in favour of the retention of statutory control of these rates the following had certain additional observations to make:

The Government of Manitoba says that, whether a subsidy should be paid to the railways as compensation for a deficiency in the rates or whether these rates should be increased at any time, are questions for the future. They can be dealt with by Parliament when they arise;

The Government of Saskatchewan says that if the rates are not compensatory some remedial action should be taken. If a subsidy is decided upon, such subsidy should be paid to the railways;

The Government of Alberta says that grain should not be carried at a loss. If there is a loss the rates should be kept as they are and a subsidy paid to the railways on the principle of the Maritime Freight Rates Act. Alberta does not contend that these rates must remain forever unaltered, but says that Parliament alone should have power to alter them;

The Government of New Brunswick says that any losses incurred by retention of the rates should be met by a subsidy to the railways;

The Transportation Commission of the Maritime Board of Trade favours the payment of a subsidy to the railways to meet possible losses.

The Governments of Nova Scotia, Prince Edward Island and Newfoundland made no statement whatever regarding the Crowsnest Pass rates. The Government of British Columbia made no specific reference to these rates, although their general attitude as to "subsidizing industries" may have some bearing on the matter involved. Their statement is that if any industry requires assistance this should be provided otherwise than through concessions in freight rates.

The following expressed themselves as being opposed to the retention of the Crowsnest Pass rates by statute:

- The Vancouver Board of Trade;
- The British Columbia Fruit Growers' Association;
- The British Columbia Paper Manufacturers and Converters;
- The British Columbia Feed Manufacturers' Association;
- The Canadian Industrial Traffic League;
- The Canadian Pacific Railway Company.

Some of those just named as being opposed to the retention of these statutory Crowsnest Pass rates qualified their statement as follows:

The British Columbia Paper Manufacturers and Converters say that the Crowsnest Pass rates should be reviewed and that if necessary some form of subsidy should be provided;

The British Columbia Feed Manufacturers' Association, while opposed to statutory rates, believe that the Crowsnest Pass rates contribute a "fair share" to the railways;

The Canadian Industrial Traffic League says that if these Crowsnest Pass rates are to remain as they are, normal rates should be determined and the difference made up to the railways by subsidy.

The Canadian Manufacturers' Association says that all traffic carried on non-statutory rates must make up for the deficiency which the Association believes to exist in Crowsnest Pass rates. The remedy suggested is to apply the principle of the Maritime Freight Rates Act to the Crowsnest Pass rates.

The attitude of the Canadian Pacific Railway Company has already been set out in full. The Company favours a repeal of the statute and the payment of a subsidy to the grain growers if they need assistance.

The Canadian National Railway Company says that there is "some merit" in having all rates placed under the control of the Board; and that an examination should be made of what revenue rates are producing and what benefits particular regions are receiving from them. The Company refers to a statement in the Report of the Sirois Commission which says that western grain is carried at unremunerative rates.

The question now to be decided is whether or not the Commission should recommend the repeal of the statutory control of these Crowsnest Pass rates. This repeal would mean that rates on these shipments would be dealt with henceforth in the same manner as all other rates, viz. by the railways and the Board of Transport Commissioners. In such case, the Maritime Freight Rates Act would remain as the only statutory measure of national policy in regard to freight rates affecting the people and industries of a particular region of Canada.

The conclusion which commends itself to the Commission is that the time has not come for Parliament to divest itself of the immediate control of these rates which it assumed in 1897. Such a time may come later with the evolution of the country's economic position, but it seems certain that it has not yet come in this case. On the contrary, it would be against the national interest at this moment, in view of the uncertainties which exist in world affairs, and consequently in world market prospects, to subject this great export industry to the disturbance which the abandonment of statutory protection would undoubtedly cause. This abandonment would mean that Parliament no longer looks upon Western Canada's production of grain for export as an industry requiring special consideration in the national interest. There is no doubt that the effect of such a measure at this time would be particularly unfortunate.

What would be the immediate result of repeal? The Canadian Pacific Railway Company says (1) that the Board of Transport Commissioners would fix the new grain rates after "a most thorough and detailed study", and (2) that relief would thereby be given to the shippers and consignees of traffic who, it says, carry the extra expense of the benefit which the Crowsnest Pass rates confer upon the western grain growers.

The suggestion that the Board would fix the new rates on grain and flour would mean, under present conditions, that these rates would be dealt with by a body whose duty, as defined by itself, is to fix and adjust rates "regardless of geographic or economic conditions", because it is concerned, as it has said, "simply and wholly with the question of the reasonableness of the toll which the railway company is seeking to collect for the carriage of a given commodity irrespective of how it is made or whence it comes". (This subject has been gone into at length in the chapter on "Economic, Geographic and Other Disadvantages of Certain Sections of Canada").

The Commission does not believe that the time has come to deal with this great export industry without regard to considerations which the Board cannot apply. If it is suggested that in this case Parliament might give special directions to the Board, the answer is that the result of such a procedure would likely prove unsatisfactory. So long as planning of any sort is called for in regard to these rates it had better continue to be done by Parliament itself.

In concluding what is to be said on this branch of the subject, it will be useful to make the following quotation from the brief presented by the United Grain Growers Limited. This is a statement with which the Commission finds itself in agreement, and it summarizes the main considerations which have come under review in arriving at conclusions:

"By way of summary, our position is that continued Parliamentary control of export grain rates in Western Canada to the lake-head and to the Pacific Coast is necessary. That fact arises from the special nature of the business of growing grain for export and from its relation to the economy of the West and to that of all Canada. There are further important considerations, including the fact that the wheat-growing industry is vulnerable to world conditions beyond Canadian control. The grain rates in question are a direct levy upon the farmer which he is incapable of transferring to others. Those rates are not, and cannot be, held down by the influence of competition from other forms of transportation or by the influence of the principle of 'what the traffic will bear,' both of which are highly important in connection with other freight rates. The development of the grain-growing industry and of the Prairies generally has been a matter of continuing national policy. Such policy, first covered by a solemn contract willingly entered into by Canadian Pacific, has been embodied in legislation passed and repeatedly confirmed by Parliament. To abandon statutory control and to place these rates under the jurisdiction of the Board of Transport Commissioners would be to prevent their regulation according to the principles of a national policy which has been the basis of the development of Canada for half a century."

In expressing the opinion that these Crowsnest Pass rates should remain in their present position what is meant is only that they should remain under the immediate control of Parliament. It cannot be said, and nobody has asked that it should be said, that their present level must never be changed. None of those who oppose repeal have asked for any more than that Parliament's control should continue and that Parliament itself should make whatever changes in these rates, upward or downward, it may appear just and reasonable to make as time goes on.

It will be in order to turn now to the assertion that these rates have become a hardship on other shippers and consignees because these latter are called upon to stand the full effect of increasing freight charges without contribution from those who have the benefit of these fixed Crowsnest Pass rates.



It has been seen that there are two special statutes in Canada governing freight rates, both intended to provide a measure of assistance to particular regions: one is the Maritime Freight Rates Act and the other is the legislation of 1925 concerning these Crowsnest Pass rates. The first of these two statutes is intended to give certain advantages in rates to all persons and all industries in the Maritime Provinces and the other territory therein described; the other is of benefit only to the producers of grain in the Prairie Provinces. They differ from each other in several respects, but principally in this: that the Maritime Freight Rates Act maintains the freight charges payable by the shipper at a level of approximately 20 per cent below the rates existing on July 1, 1927, but with the provision that these basic rates may be increased or reduced by the Board from time to time to meet increases or reductions in the cost of railway operations. (In discussing the Maritime Freight Rates Act, it is to be borne in mind that reservation must be made of whatever legal implications may arise from the provisions of Section 8 of that Act.) There is no such provision in the statute governing the Crowsnest Pass rates. The result of this difference between the two statutes is that freight rates in the Maritimes have had to bear their share of the general increases granted in the last three years totalling 45 per cent, while the Crowsnest rates have borne no part of them. It is pointed out that, if the Crowsnest Pass rates had been made to bear a proportionate share of these increases their total would have been much less than 45 per cent, probably about  $38\frac{1}{2}$  per cent. This conclusion is arrived at by following the calculation made by the Canadian Pacific Railway Company in its brief which was filed in October 1949, after the first increase of 21 per cent, where it is said:

"That the burden of the low level of grain rates at present rests mainly upon the shippers and consignees of other than grain traffic can be demonstrated by reference to the Board's Judgment in the 21% Case. At page 66 of the Judgment (XXXVIII J.O.R. & R.) the Board found the deficiency in revenue of the Canadian Pacific at something more than thirty million dollars. This additional revenue had to be derived by an increase in rates on traffic having a revenue value to the Canadian Pacific of slightly more than \$137,000,000 and the resulting increase was therefore 21%. If it had been applied also to grain traffic the increase would have been applied to a total of approximately \$170,000,000 of traffic and the resulting increase would have been only about 18% instead of the 21% allowed by the Board on the formula it adopted."

It follows, therefore, that, if these rates are to remain under the control of Parliament, the next question which arises is: What should be done to remove any unfairness they may create in respect of other shippers? Here two suggestions may be considered. One of these is to be found in the proposal made by the Canadian Pacific Railway Company to which reference has already been made in another connection, viz. that an investigation take place to determine whether or not these rates are compensatory, and that new rates be fixed in accordance with the result of the investigation. This is the sort of investigation which the Commission declined to undertake at the hearings for reasons already given. It cannot be said that it is altogether impossible in the ordinary case to determine the adequacy of a particular rate in respect to the service to which it applies, although admittedly the task presents considerable inherent difficulty. But in the case of the Crowsnest Pass rates the investigation would be involved in such a mass of contention, affecting particularly the position of the Canadian Pacific Railway Company (this was made plain at the sittings) that even an expenditure of much time and money would probably produce an altogether unsatisfactory result.

The second suggestion arises out of what has just been quoted from the Canadian Pacific Railway Company's brief regarding the incidence of general increases. It means that provision should be made to have these Crowsnest Pass rates bear their proportion of general freight rate increases as in the case

of the rates fixed by the Maritime Freight Rates Act. In this manner they would have been increased in 1948 by 18 per cent according to the calculation made by the Canadian Pacific Railway Company, and all other rates would likewise have taken an 18 per cent, instead of a 21 per cent, increase.

If this second suggestion were adopted, the final question remaining to be answered would be, who is to pay the difference between the basic rate level and the amount added by the increase, that is, should the burden of the increase fall upon the shippers of grain and flour or should it be borne by the treasury of the country in the form of a subsidy? If it is by subsidy, the subsidy should be paid to the railways, as is the case under the Maritime Freight rates Act.

Much time has been taken to consider whether it has been established that the Crowsnest Pass rates, hitherto exempt from the burden of general freight rate increases, should now be made subject to them. As above stated, the removal of this exemption is asked for principally on the ground that it casts an unfair burden on shippers of other commodities. This argument seems plausible in theory but an examination of all the facts involved shows that it is not well founded. It is true that the Crowsnest Pass rates are a benefit to the shippers of grain and flour in Western Canada. In so far as the shippers of other commodities in that region are concerned they do not complain of any undue hardship by reason of the exemption in question. From all that was said before the Commission it can be inferred, on the contrary, that these shippers would rather continue to bear whatever additional increase is required in their rates (for instance the difference between 18% and 21%) than disturb the immunity of the rates on grain and flour. The shippers in the Maritimes on the whole are fairly well satisfied with the special treatment they enjoy under the Maritime Freight Rates Act in its present form, and their representative before the Commission did not join in the suggestion that the Crowsnest Pass rates should be affected by general freight rate increases. Shippers in Central Canada are in such an advantageous position in comparison with those of the West as to make it clear that they require no relief under existing conditions. The Railway Association of Canada estimates that the railways are losing at least \$50 million annually as a direct result of the competitive rates which they put into effect in order to meet truck competition. This means that without this competition the shippers concerned, of whom the great majority are in Central Canada, would be called upon to pay normal rates very much higher than those now in force. There is nothing in their case that can be called a hardship.

On the whole therefore no justification can be found for the statement that the exemption of the Crowsnest Pass rates causes an undue burden upon shippers as a whole or upon any particular class of shippers. The application made for their increase based upon this argument cannot be entertained.

There remains the question of the railways themselves. Is there any reason why they should be indemnified against whatever additional burden they may suffer by reason of this exemption from increases of the Crowsnest Pass rates? It is not easy to see what case can be made out for them in this respect. If the Crowsnest Pass rates were made subject to general increases the ratio of the increases would go down. In any case the statement made by the Canadian Pacific Railway Company is to the effect that "since 1922 the greater burden of the Crowsnest Pass rates deficiency is borne by other shippers". This statement implies that there is really not much to be said against these rates in respect of their effect upon the railways.

As to the general question of government assistance to the railways (in respect to which subject the word "subsidy" has usually been used) the only recommendation to be made in this report is that found in Chapter XI "The Rail Link Between East and West".

## CHAPTER XI

### THE RAIL LINK BETWEEN EAST AND WEST

Various submissions were made to the Commission as to steps which ought to be taken to lessen the burden of freight rates for the Western Provinces whose geographical location necessitates a haul of traffic inwards and outwards over a long stretch of unproductive or only partly productive territory. This report deals in another chapter with the subsidy proposal put forward on behalf of the Government of Saskatchewan which does not appear to provide the proper approach to the problem. In the brief submitted by the United Farmers of Alberta Co-operative Limited the following statement is found:

"Canada is a country of two areas of civilization separated by a relative economic desert. We suggest that in all service given to the people of Western Canada by the transcontinental railway systems some formula should be introduced into the charges that has regard for the political considerations to which we have referred, subtracting a percentage of the operating costs entailed by unprofitable miles traversed between Sudbury, say, and the head of the lakes, and covering that deduction by subsidy from the national treasury so long as such subsidy can be shown to be necessary."

This statement seems to place the problem more nearly in its proper light. Language of similar import is found in the resolutions adopted in 1948 by the national conventions referred to in the chapter on Economic and Geographic Disadvantages, where it is said, in the one case, that "discrimination between the several geographic areas of the Dominion" should disappear, and, in the other case, that "The overhead cost of linking East and West together has been a matter of national concern from the earliest days".

It is the existence of this necessary link between Canada's two vast areas that must be recognized. It is called for, not only by the requirements of the exchange of goods for commercial purposes, but also by those of our national defence structure. The problem presented is that of maintaining this link so long at least as it does not provide sufficient revenue for its own maintenance. This problem concerns the whole country and not only its western portion, and the responsibility for its solution should be assumed by the nation as, for instance, in the case of the maintenance of our canal system.

It would appear suitable, in these circumstances, to provide that the cost of maintaining that portion of our transcontinental railway system which serves as a link or bridge between East and West be charged upon the general revenues of the country. This arrangement would reduce the expense of the railways by relieving them of a liability for which at present they have to recoup themselves by means of relatively high freight charges on the through traffic passing over this bridge between the two areas.

The submission of the United Farmers of Alberta Co-operative Limited above set out refers to the expense which ought to be borne by the Federal treasury as "a percentage of the operating costs" incurred by the mileage traversed between Sudbury and the head of the lakes. There is really no practical difference between the idea expressed in that formula and the measure recommended here which is intended to attain a similar result by the application of another formula, that of charging the general revenues of the country, not with any part of the actual cost of operating trains in this middle area, but with the whole cost of maintaining the bridge over which the traffic between the two large areas must pass, just as the toll-free canals in Central Canada are maintained at public expense for the passage of traffic through them.

The trackage between Sudbury and Fort William on the main line of the Canadian Pacific Railway Company constitutes that company's "bridge". A corresponding extent of trackage on the Canadian National Railways' "bridge" should also be provided for.

If this proposal is adopted a number of details concerning its application will have to be worked out between the government authorities and the railways. A rough estimate of the cost of maintaining this link between East and West makes it appear that the liability taken over by the Treasury will be approximately \$7,000,000 annually.

It is expected that the assistance herein provided will be particularly effective as a measure of relief in the case of charges on westbound traffic passing over this bridge. The Crowsnest Pass rates structure provides to a considerable extent, although of course not altogether, for the requirements of traffic east-bound.

## CHAPTER XII

### RELATIONS BETWEEN RAILWAY COMPANIES AND EMPLOYEES

The submissions to the Commission on the subject of wages to railway employees were most general in character. The Province of Manitoba said that these wages should be "looked into". The City of Winnipeg and the Winnipeg Chamber of Commerce said they should be "investigated". The Manitoba Federation of Agriculture said that wage increases should be "scrutinized". The Alberta Dairymen's Association made reference to the fact that the Board has no jurisdiction over the "largest single item of operating expenses" of the railways. The Canadian Federation of Agriculture stated that railway employees are the best paid workers in Canada and suggested that the Board should have power in hearing applications by the railways for rate increases to examine whether improvement in the efficiency of railway operations had followed wage increases. Other briefs suggested that the railway employees were receiving higher average pay than the employees of other industries and that the Commission should study the propriety of these wages.

The Canadian Congress of Labour represented that railway freight rates must be sufficient to enable the railways to pay proper wages and that there should be an obligation on the Board of Transport Commissioners to see that this object is attained. They said that railway freight rates should be high enough to ensure proper wages to employees and a proper return to the railways on their investment. The International Railway Labour Organization said that it does not believe that the Board of Transport Commissioners should exercise any authority over wages.

The spokesman for the Brotherhood of Railroad Trainmen said that wage rates on Canadian railways are approximately 20 to 25 cents per hour below those on American railways and made the statement that: "there cannot be full satisfaction of the employees' views and demands until the Canadian-United States parity is restored." This last reference is to the substantial parity which existed between 1918 and 1922 by reason of the McAdoo Award.

The wage disbursements of a railway company is a significant item in its operating costs. In 1949 the ratio of wages to operating expenses was 56.5% in the case of the Canadian Pacific with a payroll of \$202,700,000 and 59.5% in the case of the Canadian National with a payroll of \$284,500,000.

### RELATIONS BETWEEN COMPANIES AND EMPLOYEES

In the ordinary course of business, relations between railways and their employees in respect of their reciprocal obligations, including wage questions, are the same as in the case of other industries. Special regulation of industrial relations, intended to define and govern the respective rights and duties of employees and employers and to provide a procedure for the settlement of their disputes, is set up in The Industrial Relations and Disputes Investigation Act, 1948. This Act deals mainly with such subjects as (1) the right of employers and employees to organize for the protection and advancement of their respective interests; (2) the prevention of unfair labour practices; (3) collective bargaining and collective agreements; (4) strikes and lock-outs; (5) conciliation proceedings, and (6) industrial inquiries directed to the maintenance of peaceable relations between employers and employees and the promotion of conditions favourable to the settlement of disputes.

The Act provides that the Minister of Labour shall be charged with its administration and creates and defines the powers and duties of the Canada Labour Relations Board as a successor to the Wartime Labour Relations Board which was established in 1944.

The object of the Act is to preserve the ordinary rights of employers and employees in industry, directing and limiting them only in so far as is necessary to secure just and reasonable conditions of employment and to promote the speedy settlement of disputes in the interest of the parties primarily concerned and of the public whom the industry serves.

In the matter of strikes and lock-outs the Act imposes no obligations on the parties which would, in the long run, deprive the employer of the right to declare a lock-out or the employees of the right to go on strike. The Act merely enjoins a reasonable delay in the exercise of these rights by setting up a procedure which the parties must follow and which must be allowed to complete its course before the strike or the lock-out can take place.

When the dispute has come to a head a conciliation board is appointed whose duty it is to endeavour to bring about agreement between the parties. After the completion of its proceedings the Board, either unanimously or by a majority of its members, reports its findings and its recommendation to the Minister. If both parties accept the recommendation of the Board by agreement in writing, it becomes binding on them. If either declines, the attempt to settle the dispute has failed and both parties become free to exercise the rights held in abeyance during the course of the proceedings. The strike or lock-out will then take place unless, of course, the parties, spontaneously or by mediation, effect a settlement on some other basis.

#### RECENT EXPERIENCES

In the winter of 1948, a demand for a wage increase by railway employees led to the appointment of a Conciliation Board. The Board recommended an increase which was less than the employees had asked for and which they rejected. A strike was declared for a future date and there was no legal impediment to its taking place. Before the date arrived mediation was undertaken on the initiative of the Minister of Labour in the interest of the public. The wage demand was for an increase of 35 cents per hour. The Conciliation Board had recommended an increase of 7 cents. As a result of the mediation an increase of 17 cents per hour was agreed upon by the railways and the workers, and the strike was averted.

In the summer of 1950 a similar situation arose. Another wage demand was followed by the appointment of a Conciliation Board, the Board made a recommendation which the employees rejected, and a strike date was set. Again mediation was initiated by the Minister of Labour. This time the mediation failed and the strike took place.

The effect of the strike was calamitous. The truck, the bus, and the plane, put forth a great effort of relief. But the Canadian people realized at once that the economic life of this country of great distances is dependent upon the service of the railways. Parliament was called into special session and emergency legislation was passed directing the resumption, within 48 hours, of railway transportation services by the companies and by their employees. The government stated that the purpose of the legislation was to deal with the national emergency then existing, and that it was not intended to provide a permanent procedure for the handling of relations between the railway companies and their employees.

The companies and the employees complied with the emergency Statute and railway operations were resumed. The strike had lasted from the 22nd to the 30th day of August. The differences outstanding between the parties were then settled by an arbitrator appointed under the provisions of the legislation.

## SUGGESTIONS FOR THE FUTURE

As appears from the foregoing, relations between railway companies and their employees have been governed by the same rules as those which prevail in the case of all other industries within the jurisdiction of the Parliament of Canada. It has been suggested that a change be made and that a new scheme of regulation in these matters be set up by statute.

The principal suggestion made for the handling of railway wage questions is founded on the postulate (1) that wages are a major item of railway operation costs consuming as they do over 50 per cent of the earnings of the companies, (2) that these earnings consist of revenue derived from rates paid by shippers, (3) that therefore the real conflict in rate and wage disputes is between labour and the shippers, (4) that, in consequence of all this, railway wage negotiations should be conducted by a body upon which the shippers are represented, either by a person nominated by shippers' organizations or by a member of the Board of Transport Commissioners acting in their interest.

Railway operations, by their very nature, require a great expenditure of manpower. Whether the use of manpower is greater in the case of railways than in that of other industries whose output of goods or services might be measured with the output (transportation) of railways, is a question which has not been determined. No information on this subject was furnished to the Commission probably because of the difficulty which would be encountered in trying to build up a fair comparison. But the argument founded on the volume of labour involved in railway operations seems to intimate to railway employees that, because there are so many of them, they should agree that the principal factor in fixing the exchange value of their labour should not be its real money value, as in the case of other workers, but rather the compensation which the "consumers", of what they help to produce, can be brought to agree upon; that in effect these consumers (the shippers) are their employers and not the companies who engage them and regulate their work.

Although all industries must depend for their revenue on the sale to the public of the fruit of their production, the Commission knows of no other industry whereof the workers are asked to assume the position here assigned to railway employees; where they are required to bring their wage demands, not to the company for which they are presumed to be working, but to the consumers of the article (transportation) which the company produces, in part by their labour, and offers for sale. The consumers of coal, of clothing, of automobiles and probably of all other industries, have no such voice in the fixing of the wages of miners, of textile workers, of the employees of car factories, etc. It may well be imagined how the enforcement of such a peculiar doctrine in the case of railway employees would lead in course of time, (if it led to nothing worse) to the desertion of that industry by the labour element of the population.

At the same time railway employees themselves must bear in mind that they have a common interest with the companies in keeping the cost of operation within limits which will enable the railways to compete on a fair basis with other transportation agencies.

It is a further consequence of the above doctrine of shipper-participation in the fixing of the wages of railway employees, that these same shippers would continue to have nothing to say in regard to the other items of expense which the companies incur in the course of their operations and which enter also into the cost which must be met by rates. These other necessary ingredients of operation would continue, as is the case today, to be purchased by the companies at their market price notwithstanding their effect on the sum of the freight rates paid by the shippers. The "purchase" of labour only would be subject to the approval of the "consumers".

The foregoing suggestion goes on to recommend that a larger wage-fixing body than the present Conciliation Board provided by statute be set up to deal with railway wage demands and that the findings of this body be made binding upon all concerned. In effect this is the procedure of compulsory arbitration. It is then said, however, that if the principle of compulsory arbitration should be found too drastic, another procedure should be set up which would meet a situation of wage demands on the one hand and the opposition of shippers' interests on the other, by recommending the payment of government subsidies to satisfy the demands wholly or in part. The body empowered to make this recommendation would be the Board of Transport Commissioners or another body upon which that Board would be represented by one of its members.

It would be a grave mistake to impose upon the Board of Transport Commissioners the duty of fixing or of taking part in the fixing of the wages of railway employees or of recommending subsidies to be paid by the Government. The duty of the Board of Transport Commissioners is to fix just and reasonable rates, that is just and reasonable in respect to the carriers on the one hand and the shippers or consignees on the other, for the service performed. It would be impossible for them to perform this duty adequately if these extraneous questions of the fixing of railway wages and the recommending of subsidies were mixed with it.

No special legislation should be passed for the handling of railway wage disputes and the prevention of strikes or lock-outs. Legislation of the kind suggested would be highly provocative and in practice ineffective. It would settle nothing and encourage dangerous agitation. The railway industry should continue to be governed in this respect by the provisions of the Industrial Relations and Disputes Investigation Act as in the case of all other industries regulated by Federal authority.

The strike of 1950 is the first general railway strike in Canada's history, that is in all the 83 years since Confederation. It has served one good purpose in that it has made all Canadians, railway officers, railway employees and citizens in general, realize what a disastrous occurrence such a strike is. We are not likely to have another such experience in the near future. The best thing to do now is to leave the situation as it is in so far as legislation is concerned. If another similar emergency ever occurs it will have to be dealt with by those in charge of national affairs at the time of the occurrence.



## CHAPTER XIII

### AIR TRANSPORTATION

Civil aviation is governed by the provisions of the Aeronautics Act, Chapter 3, R.S.C. (1927) as amended in 1944, 1945, and 1950. Part I of the Act deals with the technical side of civil aviation comprising matters of registration of aircraft, safety and control of aerial navigation, provision and administration of facilities for air navigation and the qualifications and licensing of airmen. This Part is administered on behalf of the Minister (Transport) by the Air Services Branch of the Department of Transport.

Part II of the Act deals with the social and economic aspects of commercial air services. The Air Transport Board which administers this Part adjudicates on applications for licences to operate commercial air services and exercises economic control over the operation of air services which it has authorized. The Board is also called upon to advise the Minister in the exercise of his duties and functions under the Act in all matters relating to civil aviation.

No specific complaints were laid before the Commission with respect to air transportation. Representations were received from the Mid-West Metal Mining Association, the Canadian Airlines Pilots' Association, the Maritime Board of Trade, the Province of Prince Edward Island, the Prince Edward Island Boards of Trade, the Canadian Industrial Traffic League, the Province of Newfoundland, Eastern Provincial Airways Limited, and the Canadian Pacific Railway Company, which stressed the importance of air transportation in general; some dealt with regional problems, e.g. in Newfoundland, the Maritime Provinces and northern parts of the country; special questions were also raised.

Suggestions and recommendations made may be summarized under the following headings:

(a) *Airports*

It was submitted:

(1) That additional airstrips should be constructed in northern areas to provide better air transport between mining localities and commercial centres;

(2) That the facilities at alternate and supplementary international airports in the Maritime Provinces should be improved in order that trans-Atlantic traffic may be handled more expeditiously at these airports when, because of weather conditions, aircraft cannot land at the regular international airports of Gander and Goose Bay;

(3) That the airport at Charlottetown should be improved to permit the use of larger aircraft for the transportation of certain agricultural products and fresh fish (especially lobsters) to points in the United States and the Provinces of Quebec and Ontario;

(4) That landing strips should be constructed in King's County in Prince Edward Island;

(5) That consideration should be given to the possibility of building landing strips at Bonavista, Grand Falls, Corner Brook, and Burgeo in Newfoundland;

(6) That commercial operators should be permitted to pick up and set down traffic at the American air bases of Argentia and Stephenville, Newfoundland; and

(7) That air operators should be required to bear an increasing portion of the cost incurred by the Government in operating facilities for civil aviation.

(b) *Granting of Federal Financial Assistance*

It was suggested that federal financial assistance be granted:

(1) To assist the Canadian aircraft industry in research and development work;

(2) To assist air carriers in establishing an air cargo service between Prince Edward Island and Newfoundland to supplement coastal shipping services during the winter season and in cases of emergency; and

(3) To assist air carriers in establishing adequate air services within the Province of Newfoundland (through the granting of air mail subsidies).

(c) *Competition*

It was said that the policy of the Government in preventing competition between points named on the same scheduled licensed route of an air carrier may not always be in the public interest.

(d) *Operation of Commercial Air Services owned or controlled by Surface Carriers*

Opposition was voiced against the policy of restraining railways in the operation of commercial air services.

(e) *Royal Canadian Air Force*

It was stated that the Royal Canadian Air Force has provided free air transportation in cases which ought to have been handled on a commercial basis, thus depriving air operators of much needed revenue.

#### CONCLUSIONS

The above suggestions and recommendations must be considered in the light of the policy and practice presently followed.

(a) *Airports*

Our airport system is composed of main line airways systems and of secondary airports. A main line airways system requires (i) terminal and principal airports complete with lighting and approach systems and buildings; (ii) intermediate airports complete with lighting and range at about every one hundred miles; (iii) emergency lighting facilities; (iv) radio aid to navigation including communication systems; and (v) meteorological services.

The policy with regard to airports forming part of the main line airways systems may be stated briefly as follows:

(1) Wherever possible, existing municipal airports are used and financial assistance is provided to bring them up to and maintain them at the required standard;

(2) Where there is no municipality or where the municipality is unable to participate financially or is not interested, the Government constructs and maintains the airports; and

(3) The Government has assumed the entire responsibility for the construction, operation and maintenance of all radio aids to navigation on all main line airways systems.

The provision of adequate facilities at airports forming part of the main line airways system is within the jurisdiction of the Department of Transport. At international airports where facilities for customs clearance must also be provided, the Department of Transport acts in co-operation with the Department of National Revenue. The provision of adequate facilities at both domestic and international airports is a matter for the attention of the Department of Transport and the Department of National Revenue and representations should be directed to these departments.

Financial assistance is granted for the establishment of secondary airports where such airports are deemed necessary to promote the development of natural resources. In considering applications for granting of federal financial assistance the following factors are taken into consideration: (i) the volume of local potential traffic; (ii) the availability of other means of transportation; (iii) the advantages to be derived from the existence of an air service, and (iv) the cost of providing the airfield for which assistance is sought. An interdepartmental committee was established about one year ago for the purpose of studying proposals of financial assistance for the construction of additional airports in northern areas.

With regard to submissions concerning air transportation in Newfoundland information shows that the matter is under consideration by the Air Transport Board and the Department of Transport. As to the exercise of traffic rights by commercial operators at the American air bases of Argentia and Stephenville, this is a matter which must be dealt with through diplomatic channels between the governments of the two countries.

The submission that air transportation should bear an increasing portion of the cost incurred in providing operating facilities raises a question for administrative decision and not for any recommendation by this Commission. According to information, air carriers are required to pay landing fees and requests have been made for a reduction in these fees. It must be noted that considerations of national defence, implementation of international obligations and the provision of facilities used by other than commercial operators have contributed to an increase in the expenditures involved in the establishment and maintenance of air transportation facilities.

(b) *Granting of Federal Financial Assistance*

The suggestions relating to this subject are of either national or government policy upon which no useful recommendation can be made.

Financial assistance has been granted to develop the Canadian aircraft industry and to design new types of aircraft or to improve existing designs, and Canadian firms are now building aircraft pursuant to agreements with the Government.

Up to the present time commercial air services in all parts of the country have been established and maintained without direct subsidies. Departure from the established practice may be warranted in certain cases, but decision must be made by the Government after consideration of all factors involved.

Airmail contracts are granted as a result of negotiations between the Post Office Department and the air carrier. Subsidies to air services through airmail contracts is again a matter of Government policy.

(c) *Competition*

Under present conditions the policy followed with regard to competition over scheduled routes appeared well conceived. In order that the public may continue to enjoy the advantages of regular air services, operators of such services must be assured of all the traffic offered between the points which they serve. However, the Air Transport Board has made some exceptions to the established policy and has permitted competition when satisfied that such competition would not unduly prejudice the scheduled operator.

(d) *Operation of Commercial Air Services Owned or Controlled by Surface Carriers*

The Aeronautics Act provides that no licence shall be issued in respect of commercial air services owned, controlled or operated by any person who is engaged in the transport of goods or passengers for hire or reward by means other than aircraft unless the Governor in Council is of the opinion that it is in the public interest that such licence be issued. Licences have accordingly been

issued for domestic and international services to Trans-Canada Air Lines, a wholly-owned subsidiary of the Canadian National Railways, and to Canadian Pacific Air Lines Limited, a wholly-owned subsidiary of the Canadian Pacific Railway Company.

(e) *Royal Canadian Air Force*

Measures which appear to be satisfactory have now been adopted in consequence of complaints made by commercial air carriers regarding the practice followed by the Royal Canadian Air Force of providing free transportation not directly related to military purposes.

(f) *Regulation*

The subject of the regulation of air transportation is dealt with more fully in the Chapter on "National Transportation Policy".

## CHAPTER XIV

### WATER TRANSPORTATION

The following submissions were made dealing specifically with regulation of water transportation:

1. The Bellacoola Consumers Co-operative Association, of Bellacoola, British Columbia, complained of recent increases in coastal shipping fares and rates in that Province and made the following suggestion:

"The basic problem underlying this submission is that of establishing the right of people residing in the coastal areas of British Columbia to have set up some controlling body for the regulation of fares and freight rates to areas served by coastal steamship companies."

The evidence shows that the representative of the Association was speaking only on its behalf and not for the other coastal areas of British Columbia. No other submission was made supporting this recommendation.

2. The Canadian Industrial Traffic League recommended that regulation similar to that brought about by the Transport Act be established for water services between the Eastern and Western Coasts of Canada (presumably via the Panama Canal).

3. The Associated Newfoundland Industries Limited made the following submission on the matter:

"... of far greater importance, therefore, because of the relatively larger volume of traffic, is the subsidization of steamship rates in the same or somewhat similar manner to that applying to rail traffic under the Maritime Freight Rates Act. We, therefore, feel that there must be regulation of carriage of goods by sea rates on ships engaged in interprovincial carriage within the Maritime region, if any relief is to enure to the people of Newfoundland."

The Associated Industries further stated that:

"The regulation of freight rates should include the carriage of goods by sea as well as rail traffic by placing the same under the jurisdiction of the Maritime Commission or other statutory body with the necessary regulatory powers."

This regulation was not referred to by other Newfoundland submissions and was opposed by the Transportation Commission of the Maritime Board of Trade which said:

"This Commission is opposed to the extension of Part II of the Transport Act to apply to the transport of goods or passengers:

- (a) Between ports or places in British Columbia;
- (b) Between ports or places in Hudson Bay, Nova Scotia, New Brunswick, Prince Edward Island, and the Gulf and River St. Lawrence, east of the western point of the Island of Orleans, or between any two or more places therein, including Newfoundland; except in a case in which a strong and definite need is established for such regulation. It is submitted further that there does not appear to be any general need for such regulation, particularly in connection with the Maritime Provinces, and until there is a demand for regulation predicated on need it is submitted that regulation for regulation's sake is unwarranted."

Only a small part of domestic water transportation in Canada is regulated in respect to rates and services. This regulation is governed mainly by certain sections of the Transport Act, the Inland Water Freight Rates Act and the Railway Act.

The Canadian Maritime Commission through its subsidy agreements controls the fares, rates and services of all shipping companies in receipt of Federal subsidies. These subsidies are granted to provide water transportation to outlying communities. During the fiscal year 1949-50 thirty coastal and inland steamship services received subsidies amounting to more than two million dollars. Two of these services were operating on the West Coast, two on the Great Lakes and twenty-six on the East Coast, including the River and Gulf of St. Lawrence.

On the West Coast the coastal water transportation rates are determined by the Coastwise Operators Association of British Columbia.

On the East Coast the rates are partially established by a conference known as the Associated Newfoundland Lines comprising shipping companies operating from Montreal and Halifax to Newfoundland.

#### CONCLUSIONS

The extent to which water transportation should be regulated has been the subject of inquiries on different occasions in the past and was again considered at length by Parliament in 1937 and in 1938 when the Transport Act was introduced and enacted. These matters were again brought before Parliament when this Act was amended in 1944 and in 1945. The subject is dealt with more fully in the Chapter on "National Transportation Policy".

## CHAPTER XV

### MOTOR VEHICLES

The scope of this inquiry is limited, as of course it had to be, to "all questions of economic policy within the jurisdiction of Parliament". The subject of this chapter is motor traffic, which, in the main, is of purely provincial jurisdiction. But the effect of this traffic upon the welfare of the railways has assumed such importance as to make it necessary for the Commission to state the facts which those concerned in railway matters must bear in mind when dealing with the question of Canada's transportation policy. And besides this, it is also true that a portion of the traffic, relatively small but of sufficient importance to have become in itself a problem for the railways, is interprovincial and international, and therefore possibly within the competence of federal legislation (although, of course, this Commission does not pretend to express any opinion on legal questions that may arise concerning it).

Truck competition did not become noticeable in Canada until less than twenty-five years ago. In the chapter of this report dealing with Crowsnest Pass rates it is pointed out that in the course of the great parliamentary debate on freight rates, which took place in 1925, nothing at all was said about the truck. Water transportation alone was discussed as a factor holding down railway rates in Central Canada, to the advantages of shippers in that region. From then on the situation has been changing very rapidly, to the extent that today water competition is seldom mentioned; truck competition has overshadowed it almost completely. The years since the end of the war have seen this traffic increase more rapidly than ever with the improvement in motor vehicles and the extension of hard-surfaced highways which have taken place. The trucks generally provide favourable rates and a convenient service.

The Canadian National Railways has been affected more seriously than the Canadian Pacific by this competition because of its greater mileage in the industrial areas of Central Canada.

In 1923, there were 515,178 passenger automobiles, including taxis, registered in Canada. In 1949 there were 1,672,352 such registrations. In 1949 there were 7,696 motor buses in the country, urban and interurban. Statistics do not show the division in numbers between these two services. It is the interurban bus that competes with the railways.

The losses occasioned to the railways by motor trucks result partly from traffic diverted to the latter and partly from the granting of competitive rates by the railways in order to retain as much of the traffic as possible. The Railway Association of Canada estimates that at least \$50 million is being lost annually by the railways as a direct result of reductions made in freight rates (competitive rates) intended to retain some of the traffic.

Conditions seem to indicate that these losses to the railways by reason of truck traffic can be expected to increase as time goes on.

The effect of these losses in railway revenues is to throw a heavier rate burden upon the traffic which is non-competitive, that is long-haul and low-valued traffic. This burden is borne especially by those sections of the country, such as the Prairie Provinces, where truck competition is very much weaker than in Central Canada.

Motor vehicles operate on highways which are owned and maintained by the provinces. The revenue derived from them by each provincial government

consists of licence fees and gasoline taxes. Some discussion was had at the Commission's hearings on the question whether the revenues paid by the trucks to the provinces provide adequate compensation for their use of the highways. All that can be said here on this point is that it is in the interest of the provinces to collect at least enough revenue from this source to avoid loss if not to make a profit, and there does not appear to be any reason to suppose that this is not being done.

Regarding the distribution of business between for-hire trucks and private trucks, accurate information is lacking, but such statistics as are available show that private trucks far outnumber for-hire trucks, and that on the other hand the for-hire trucks carry a larger proportion of the traffic than might be assumed from their number. These latter trucks are of two classes, some operating as common carriers for hire and others carrying goods for shippers by contract.

The form of provincial control of trucks varies from province to province. British Columbia regulates rates and routes, and grants licences on the basis of public necessity and convenience. Alberta also requires proof of public necessity and convenience, but does not control rates. Saskatchewan and Manitoba require proof of public necessity and convenience and control rates. Ontario has no rate control but requires proof of public necessity and convenience. Quebec requires proof of public necessity and convenience and provides for the filing of rate schedules. The Maritime Provinces confine their regulations to matters of public safety. They do not regulate rates nor require proof of public necessity and convenience.

It is evident from the facts set out in this chapter that motor vehicles, mostly under provincial control, constitute a most serious form of competition to the railways. It also seems likely that this competition will increase in strength with the progress made in highway development. It must be borne in mind, in relation to this question of highway traffic, that the trucks are not to be considered as providing merely a form of unfair competition to the railways. The trucking industry has a useful part to play in transportation. A large part of its business is applied to the hauling of traffic which would not go to the railways in any event. The relation of these conditions to the formulating of a national transportation policy is discussed in the chapter dealing with this subject.



## CHAPTER XVI

### THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

#### COMPOSITION OF THE BOARD AND ITS FUNCTIONS

From the time of its creation in 1903 until 1938 the Board was known as the Board of Railway Commissioners for Canada. In 1938 the name was changed by the Transport Act to The Board of Transport Commissioners for Canada.

The Board was at first composed of three members. This number was increased to six in 1908 and has so remained ever since. Each Commissioner is appointed to hold office, during good behaviour, for a period of ten years from the date of his appointment, and if not disqualified by age is eligible for re-appointment. He may be removed at any time by the Governor in Council upon address of the Senate and House of Commons. A Commissioner ceases to hold office upon reaching the age of 75 years. Both the Chief Commissioner and the Assistant Chief Commissioner must have been either a judge of a Superior Court or a barrister or advocate of at least ten years' standing.

The nature, jurisdiction and powers of the Board were set out recently in a statement made on the subject by one of its superior officers and it will be useful to adopt and reproduce this statement here:

"The Board is purely a creature of statute and has only such jurisdiction as the statute gives it either in express terms or by necessary implication: *Duthie v. G.T.R.*\* It is a court of record, and in respect of matters necessary or proper for the due exercise of its jurisdiction has all such powers, rights and privileges as are vested in a superior court: Sections 9(2) and 33(3) of the Railway Act. The orders or decisions of the Board cannot be questioned or reviewed in any court except on appeal under Section 52.\*

"Originally the Board had jurisdiction over railways only. By subsequent legislation it was given a limited jurisdiction over other forms of transportation. In rough outline its present jurisdiction covers: (a) the construction, maintenance and operation (including rates) of railways; (b) the rates of telephone, telegraph and express companies; (c) the tolls on international bridges and tunnels; (d) the licensing and rates of ships on the 'Great Lakes' and the 'Mackenzie River' as defined in The Transport Act, 1938; (e) specific matters in regard to which jurisdiction is conferred by a number of general and special Acts, such as the Bridges Act, the Act respecting the Continental Heat and Light Company, and the Winnipeg Water Act.

"By Section 33 of the Railway Act, authority is given to the Board to inquire into, hear and determine any application by any party interested: (a) complaining that any company or person has violated or failed to comply with any provision of the Railway Act or the Special Act or any order made thereunder; (b) requesting the Board to make any order, or give any direction, leave, sanction or approval which by law it is authorized to make or give or with respect to any matter, act or thing which, by the Railway Act or the Special Act, is prohibited, sanctioned or required to be done. And by Section 34 the Board has power to make rules or regulations (a) with respect to any matter, act or thing which by the Railway Act or the Special Act is sanctioned, required to be done or prohibited; (b) generally for carrying the Railway Act into effect; (c) for exercising any jurisdiction conferred on the Board by any other Act."

Since the above statement was made the jurisdiction of the Board has been further extended to give it supervision over pipe lines for the transportation of oil and gas (The Pipe Lines Act, 1949).

\* (1905) 4 C.R.C. 304.

\* Section 52(10).

## EFFECT OF THE BOARD'S DECISIONS

In Ex Parte 162 in 1946, when the Interstate Commerce Commission of the United States granted a 20% increase in rates, the Commission in referring to the decision it was about to make, said:

"What we do will directly affect production and distribution in the industries of the nation, and the welfare of its various regions, as well as the transportation industry. It will have its effect upon the forces tending to economic stabilization or the reverse."

The same may be said concerning rate increase decisions made by the Board of Transport Commissioners for Canada. Its action in these matters is important, not only because it meets the revenue requirements of the railways, but also because the form of the increase may have an effect on production and distribution, and the welfare of regions.

It is because of the impact of the Board's decisions on certain regions that seven provincial governments have contested the recent applications for rate increases made by the railways and asked for the appointment of a Royal Commission of Inquiry.

## IMPORTANCE OF THE COMPOSITION OF THE BOARD

In 1902 when the Minister of Railways and Canals introduced the Act which created the Board of Railway Commissioners (in 1903), he said:

"Mr. Speaker, as this question impresses itself upon my mind, the character, the capacity, the wisdom and the selection of the men is everything. Unless this country can afford us men of the right stamp, men of independence of character, of firmness and of fairness, men who have experience in business, experience in railway operation, experience in law; unless the country can afford us these conditions, then, we cannot look with any reasonable hope to find that the operation of the Commission will be successful. We have, therefore, to give to these men such a tenure as will invite the men that we want to come and take their seats upon this Board. We have to give them a tenure long enough to induce them to give up any business in which they may be engaged and which may be profitable."

Dr. Simon J. McLean, upon whose recommendations the Board of Railway Commissioners was set up, had this to say in his report to the Government in 1902:

"The experience of both England and the United States points to the conclusion that the most efficient work would be obtained from the Commission if the members were appointed on the same tenure as the judges. A life tenure would mean a continuity of regulative tradition. It would also mean that the dignity and security attaching to the life tenure would permit the Commission to obtain a high order of ability, which could be obtained only in the case of the shorter tenure by the payment of a salary much higher than Canada could afford to give."

After pointing out that "no species of regulation can remove all of the complaints that have arisen" and that some of the complaints are "the outcome of economic forces which are superior to legislative enactment", Dr. McLean stated: "The regulation will be in the interest not only of the shipper, but also of the railway. Equipped with an efficient and commanding personnel, the Commission will stand as arbiter. It will have responsibilities to both parties."

It is clear from both what Dr. McLean and the Minister said in 1902 that it was then regarded as most important that the Board have "an efficient and commanding personnel," that the tenure of office of the Commissioners should be sufficient to attract men of the highest calibre, and that the "selection of the men is everything".

If this was important in 1902, it is far more important today. The jurisdiction of the Board covers a wider field; the amounts involved in rate cases run into hundreds of millions of dollars. The Board's powers in matters outside the scope of this Commission, e.g. telephone lines, are in themselves great and lend further weight to the necessity of a strong Board equipped with a capable and efficient staff.

Legislation giving broad powers will not cure all ills. The successful operation of the Board must depend on the ability of the men who are appointed to it and the staff which they have around them.

#### COMPLAINTS CONCERNING THE BOARD

The complaints before the Commission concerning the Board were many and varied, but may be shortly stated as follows:

1. The railways' chief complaint concerns the delay in granting increases in rates to correct "the imbalance between rates and costs". In the main, however, the railways seem to be satisfied with the Board. Counsel for the Canadian Pacific Railway Company states that since 1903 it has had many eminent men among its members, and that it has built up a sound body of jurisprudence based on tried and established principles of regulation drawn from both Great Britain and the United States, and that there is no single basic principle of the Board's jurisprudence which is not founded upon justice and impartiality as between the public and the railways. He alleges that the Board is equipped, qualified and experienced in finding what are just and reasonable rates. The Chairman of the Canadian Pacific Railway Company states that the staff and technical assistants of the Board might be enlarged and possibly the personnel of the Board itself might be strengthened. Another witness for the Canadian Pacific said that the traffic department of the Board has sufficient staff and that this part of the Board's operations is being well administered, but that more staff may be needed when the General Freight Rates Investigation is under way. An accounting witness for the Canadian Pacific says that the accounting staff of the Board needs strengthening and that if uniform accounting is adopted there will have to be a reorganization of that department of the Board. The Canadian National Railways is in agreement with these last two statements. Counsel for the Canadian Pacific Railway Company said: "It is easy for parties who are dissatisfied because they have not had all their arguments accepted by the Board to make the statement that the Board has applied wrong principles, that its attitude is either too legalistic on the one hand, or, on the other hand, a complete departure from the established principles of rate making . . ."

In effect, then, the railways pass over the criticism of the provinces as being due to the fact that they "lost the case" and are accordingly dissatisfied with the decision.

2. The provinces criticized the Board on many grounds, chief of which were: That although the Board had the necessary powers to act in certain cases, it had failed to do so; that it had not exercised sufficient control over railway operations and rates, particularly competitive rates; that it did not act enough on its own motion and initiative; that it erred in accepting railway officers' opinions on certain matters without thorough investigation; that it failed to bring about equalization; that it had a negative attitude in dealing with geographic, climatic and economic conditions and also in long and short haul discrimination; that it did not give sufficient consideration to the economic effects of its decisions; that it waited for complaints and had placed an impossible onus on individual shippers seeking individual rates; that it had improperly handled freight rate increases, taking the easy but unfair method of applying

uniform percentage increases; that it had, by following slavishly its prior decisions, circumscribed its powers; and that it had not an adequate staff of advisers, accountants, economists, rate experts and statisticians.

#### SUGGESTED REMEDIES

The remedies suggested were vague and general in character and fall into four classes:

(1) Suggestions of the first class deal with the character of appointments to the Board and the enlargement of the Board's staff. As summarized they are:

That the members of the Board should have "the highest possible qualifications, so as to ensure a judicial and competent performance of its functions under the Act";

That the Board should be "strengthened" administratively and be supplied with an "adequate" staff of advisers, experts, accountants, engineers, economists, rate experts and statisticians;

That there should be set up a system of "examiners" similar to that existing in the organization of the Interstate Commerce Commission in the United States. These examiners are senior officers of the Interstate Commerce Commission who hear certain classes of cases at different points throughout the country and report to the Commission;

That there should be an office of the Board in each province with local representatives and "adequate" personnel; and

That the Board should be composed of men who "understand transportation".

Stress was laid upon the importance of the Board's decisions and the necessity of a "strong" Board.

(2) Suggestions of the second class are to the following effect:

That the Board should be "more active" in making investigations;

That the Board should make "continuous studies of rates and review and adjust rates more often on its own motion";

That the Board should exercise "more initiative" and should "direct and maintain" equality of rates between all regions;

That the Board should be "freed from its previous decisions";

That the Board's attitude should be "less negative" and "more positive"; and

That the Board should maintain closer regulation over "individual rates", rate levels, accounting, segregation of rail and non-rail assets, and particularly over competitive rates.

(3) Suggestions which fall within the third class favour the broadening of the Board's powers. They are as follows:

That the powers of the Board should be "clarified" and "widened";

That the Board should have "fuller supervisory responsibilities including such matters as authority and responsibility to compel economies, and require co-operation under the Canadian National-Canadian Pacific Act," the "determination of the standard of service" to be supplied by the railways, and the right to "force the railways to take full advantage of technological improvements";

That the Board should "examine the efficiency" of railway operations when applications are made for increases in rates because of increases in wages to railway employees;

That the Board should be given control over air, highway and water transportation; and

That the Board should have power to control the "floor" as well as the "ceiling" for rates.

(4) The suggestions of the fourth class tend to a limitation of the Board's powers. They propose:

That the Government should take a "more active role" and "interfere on major issues";

That the Board's powers are broad enough now and should not be increased;

That the Board's powers should be "more precisely defined";

That the Board should not be an "economic planning Board";

That there should be less regulation of railways, that extension of regulation stultifies management and curtails initiative and results in the Board substituting its judgment for that of railway management;

That the policies to be followed by the Board should be set out in the statute;

That the Board should be less independent and subject to more government control; and

That the Board's function should be "primarily to prevent inequality".

#### ASSESSMENT OF THE COMPLAINTS

It must be borne in mind that the complaints in the main are from two parties who came into sharp conflict with one another in a series of cases before the Board in the midst of a drastic change in economic conditions following a World War and the decontrol of prices, and that neither party to the dispute was entirely satisfied with the results of the decisions of the Board. Many of the issues raised must be viewed in the light of these facts.

Some complaints made during the course of the hearings were later abandoned or moderated; examples of these are: (a) the complaint that the Board did not give effect to geographic, climatic and economic conditions; in the final presentations all parties admitted that the Board should not be made an economic planning body; (b) the complaint that the Board should not be bound by its previous decisions; all parties agreed that the Board is not so bound and that Section 51 of the Railway Act is clear on this point.

In the main it would seem that the following criticisms of the Board are worth recording here, in the expectation that this will lead to an improvement in procedure for the future, and have been justified by the facts:

1. That, in the circumstances of the long delay in disposing of the 30% application made in 1946, the Board ought to have granted an interim increase in proper time. On the other hand, however, it must be pointed out, in this regard, that the railways did not ask for such an increase;
2. That the Board accepted the assumption that all rates could be justly and reasonably increased by the same large horizontal percentage increase, regardless of length of haul, the nature of the commodity or the ratio of the freight to the value of the article. This is an unwarranted assumption;
3. That the Board did not itself obtain, or compel the railways to file with it, proper statistics concerning traffic movements so as to enable it to determine which articles could bear greater or lesser increases in rates;
4. That the Board has not paid sufficient attention to the classification to ascertain that articles are properly classified to meet changing conditions;
5. That the Board has not over the years kept close enough supervision over competitive rates. It will be sufficient in this regard to refer to the conclusions on this subject to be found in the Section on Competitive Rates in this report;

6. That the Board has not in the past twenty-three years taken steps to bring about equalization between rates in the West and in the East; and
7. That the Board has not paid proper attention to the effect of increases in rates on long-haul traffic.

All of these matters are dealt with elsewhere in this report, but the following statements must be added here in fairness to the Board:

(a) At the time the first of the recent rate increase applications was made in 1946, the Board had been comparatively inactive for a considerable period during which the rates were "frozen" and prosperous traffic conditions had created a sense of security in the railways and in the Board;

(b) The Board, while seeming to recognize that the method of increases by a straight horizontal percentage might not be just and reasonable in all its consequences, said that it was unable to depart from it because of the lack of reliable statistics with which to devise a different scale of increase;

(c) The Board has been ordered to hold a General Freight Rate Investigation and has undoubtedly felt that some of these matters should properly await the results of such investigation; and

(d) The railways are responsible in some measure for prevailing unsatisfactory conditions because of their failure, or their inability, to supply the Board with information which would have enabled it to deal more promptly and efficiently with the problem of rate adjustments.

#### ASSESSMENT OF THE SUGGESTIONS

The suggestions made are in the main too vague to be helpful. Most of them may more properly be termed "complaints" put forth in the guise of suggestions.

When asked what broader powers should be conferred by statute on the Board, or what more precise definitions of the powers should be set out in the Railway Act, most of the parties insisted that the Board should have broad discretionary powers and that the Act is satisfactory in its present form but that the Board has "circumscribed" itself by its decisions.

It can be stated fairly that what everyone really wants is that the Board's powers be kept as they are now, but with the hope and expectation that the recent contentious proceedings which have gone on will cause the Board to exercise greater care in the future in arriving at its decisions.

Nothing put forward to the Commission warrants recommending any extension or limitation of the Board's present powers under the Railway Act.

Nothing put forward to the Commission warrants recommending the establishment of Branch Offices of the Board in the various provinces.

Regarding the appointment of examiners with similar duties to those performed by examiners for the Interstate Commerce Commission, the fact is that the Board itself, acting under Section 12 of the Railway Act, has wide powers for providing for the hearing of cases before it by two, or in some cases by one, of its members and that this power is being exercised. Sittings under this Section are held in various localities to suit the convenience of interested parties.

#### CONCLUSIONS

With the exception of the pertinent recommendations found elsewhere in this report, there is no reason why the powers and duties of the Board should be changed.

It is not desirable to enact statutory directions setting out rigid principles to be followed by the Board.

The Board should continue to have broad discretionary powers.

Most of the complaints made are capable of adequate remedy under the existing legislation.

Most of the suggestions made are in reality criticisms which the Board may overcome.

In dealing with the subject of the Board, the importance of its functions and the high standard which should be maintained in the selection of its members cannot be stressed too strongly. Since its inception, the Board's responsibilities have in many respects increased, and its jurisdiction has been extended. It is now called upon to regulate some of the most important public utilities in the country and its decisions are of vital importance to, and have far-reaching effects upon, almost every person in Canada.

Because the Board's duties seem likely to be very onerous from now on, the tenure of office of members of the Board should no longer be limited to ten years. This ten-year limitation must have a deterrent effect on qualified men who realize that in accepting appointment to the Board they run the risk of finding themselves in an undesirable position, by reason of age or of altered business conditions, when they return to private life. Dr. McLean's recommendation of a life tenure was not acted upon but the principle implied in it might well be adopted now by making the position of the members of the Board similar to that of Judges of the Court of Exchequer, with retirement at the age of seventy-five years. The statutory qualifications of the Chief Commissioner and Assistant Chief Commissioner should continue as at present. It is not suggested that the Railway Act determine any particular qualifications for the other members because such a provision might stand in the way of some desirable appointments. It must be left to the discretion of the Governor in Council to decide in each case what qualifications shall be required of the appointee.

It is of course of major importance that an administrative and judicial tribunal dealing with matters of the kind here involved be provided with an adequate staff of experts. Provision for this is already made in Sections 21 and 25 of the Railway Act. There are times when the staff required may be much larger than at other times, as, for instance, during a general freight rate investigation.

#### RECOMMENDATIONS

All the suggestions in the above conclusions are to be taken as being made subject to the recommendations regarding the reorganization of the system of control and co-ordination of all agencies of transportation found in the Chapter entitled National Transportation Policy.

## CHAPTER XVII

### NATIONAL TRANSPORTATION POLICY

Paragraph 2(a) of Order in Council P.C. 6033 contains the following sentence which is of great significance:

“ . . . to recommend what measures should be initiated in order that the *national transportation policy* may best serve the general well-being of all Canada.”

It has been suggested that Canada's national transportation policy is defective in certain respects, that for instance it is not “co-ordinated”, and that it is not an “integrated” policy.

The broad outlines of Canada's national transportation policy may be found in an examination of the following relevant facts:

- (a) The construction of the Intercolonial Railway to enable the Provinces of Nova Scotia and New Brunswick to market their products in Central Canada;
- (b) The construction of the Canadian Pacific Railway to unite British Columbia with the rest of Canada;
- (c) The agreement to establish and maintain continuous communication between Prince Edward Island and the mainland of Canada;
- (d) The Terms of Union with Newfoundland providing for the taking over of the Newfoundland Railway and Steamship Services and the entrustment thereof to the Canadian National Railways, and the agreement to maintain a freight and passenger steamship service between Port aux Basques and North Sydney;

(All of these policies were made part of the terms of Union between Canada and the various provinces mentioned above, and indicate the importance which transportation has had in the very formation of the confederation from the beginning in 1867 until the recent entry of Newfoundland in 1949.)

- (e) The adoption by Parliament of the Crowsnest Pass Agreement to ensure cheap transportation of grain from the Prairie Provinces to the head of the Great Lakes on its way to foreign markets; originally this agreement applied only to lines of the Canadian Pacific Railway in existence in 1897, but Parliament subsequently made the rates statutory for all railways;
- (f) The passage of the Maritime Freight Rates Act in 1927 to provide for reduced rates on westbound traffic and on traffic within the “select area” designated by the Act, the application of the Act as far as appropriate to the Island of Newfoundland in 1949;

(Parliament's action in these matters indicates recognition of the importance of transportation to particular areas and the possible necessity of special treatment under certain circumstances.)

- (g) The construction of the National Transcontinental Railway to encourage the shipment of goods through Canadian ports;
- (h) The construction in Central Canada of an extensive canal system which became toll free, built at a cost of about \$328,000,000 and maintained at government expense;
- (i) The granting of substantial areas of land and subsidies to encourage and assist railway construction and the opening up of the country;



- (j) The taking over by the country in the years between 1918-1923 of the bankrupt railway lines and the welding of them along with government lines into the Canadian National Railway System;
- (k) The construction of Hudson Bay Railway and the development of the Port of Churchill;
- (l) The subsidization of coastal shipping services and large investments in harbours and other navigation facilities;
- (m) The large investment in and operation of Trans-Canada Air Lines and assistance given to other air lines;

(These all indicate Parliament's close attention to and active participation in the transportation field.)

- (n) The establishment in 1903 of the Board of Railway Commissioners which in 1938 became the Board of Transport Commissioners for Canada;
- (o) The enactment in 1938 of The Transport Act providing for a degree of co-ordination;
- (p) The establishment in 1944 of the Air Transport Board; and
- (q) The establishment in 1947 of the Canadian Maritime Commission.

(These measures indicate Parliament's interest in the regulation and supervision of transport media.)

All the foregoing form part of a National Policy. They indicate the continuous concern of Parliament with Canada's transportation problems including the problem inherent in great distances and sparse population. Parliament has authorized the expenditure of huge sums of money to overcome these difficulties which stood in the way of the country's development.

Canada, by the very nature of its geographic location, the great distance between its extremities, the vast stretches of relatively unproductive areas between its settled parts, and the existence of much mountainous terrain, is a difficult country for which to furnish transportation. Yet in a comparatively short space of time it has been provided with two large and efficient railways, an extensive canal route in Central Canada and a rapidly developing system of air transport. Under Canada's constitution, control over highway traffic is, in the main, vested in the legislatures of the Provinces. The Provincial Governments have expended large sums of money on road construction and gradually the country is being provided with a network of good roads. Now the Federal Government is co-operating with the Provincial Governments in the construction of the "Trans-Canada Highway" which will link the Provinces of Canada from the Atlantic to the Pacific with a suitable route for motor transport.

It has always been recognized that railways are of primary importance to Canada and its people. Ours is a country great in size and small in population, yet today we rank third in the whole world in the export of goods. This by the very nature of things requires a long haul of primary commodities which to a great extent must be transported by rail.

To enable our products to compete in world markets the railways must be able to haul goods cheaply and efficiently. It is therefore important not alone to the railways, but to our people that the two major railway systems shall always be in a position to match the progress made in other countries which compete with Canadian producers for the markets of the world. Without this Canadians would be at a competitive disadvantage.

Canada, more by accident than by design, became the owner of what is today one of the largest railway systems in the world. This came about because the Federal and Provincial Governments had guaranteed the obligations of the railway companies which were later to become amalgamated into the Canadian National Railways System. This situation is unique in history—the country

owns and operates a railway in competition with a privately-owned one almost as large, and the two together provide over ninety per cent of the entire rail transportation in the country.

It is part of the National Transportation Policy that the two great systems shall have the opportunity to operate side by side, in order to provide the requisite services to the country and its people and at the same time to serve as a check and a balance on each other, without destroying the opportunity of the privately-owned road to live and progress and to earn a fair revenue.

It was submitted to the Commission that the two railway systems should be amalgamated under Government ownership and operation. This is not a novel suggestion, and it has been considered and rejected on previous occasions. The conclusion reached on such an examination of the proposals as it has been possible for the Commission to make is that such an amalgamation would not be an effective remedy for the problems which are said to affect Canada's railway system at this time. The question is dealt with more fully in another chapter.

#### CO-ORDINATION

Submissions were made to the Commission urging the "co-ordination" and "integration" of all forms of transport media and the regulation of all by one and the same Board in order to bring about such integration and co-ordination.

This question of the co-ordination of transport has a history which it will now be of interest to review. In 1938 Parliament passed The Transport Act, which was declared to be "An Act to establish a Board of Transport Commissioners for Canada, with authority with respect to transport by railways, ships and aircraft." The Board so established was the former Board of Railway Commissioners for Canada whose members remained in office with a change of name. The Act then went on to define the duties of the Board as follows:

"3(2) It shall be the duty of the Board to perform the functions vested in the Board by this Act and by the Railway Act with the object of co-ordinating and harmonizing the operations of all carriers engaged in transport by railways, ships and aircraft and the Board shall give to this Act and to the Railway Act such fair interpretation as will best attain the object aforesaid."

This provision declared the object of the legislation to be to co-ordinate and harmonize all carriers of certain descriptions, that is railways, ships and aircraft. But later provisions of the Act restricted the duties of the Board very considerably in respect to air and water transportation. (Sections 12 and 15). In the result the Board was left with full jurisdiction over transportation by rail, but very limited jurisdiction over transportation by air and water.

In 1944 Parliament changed its policy in respect to co-ordination. The Act passed in that year repealed the aforesaid Section 3(2) and substituted the following therefor:

"3(2) It shall be the duty of the Board to perform the functions vested in the Board by this Act and by the Railway Act with the object of co-ordinating and harmonizing the operations of all carriers engaged in transport by railways and ships and the Board shall give to this Act and to the Railway Act such fair interpretation as will best attain the object aforesaid."

During the same session Parliament provided for the separate regulation of air transportation by setting up a Board known as the Air Transport Board, consisting of three members appointed by the Governor in Council.

The net result of the action of Parliament in 1944 was to lessen very greatly the possibility of co-ordinating and harmonizing the different transport media under Federal control. It left to the Board of Transport Commissioners the duty of carrying on this co-ordinating and harmonizing in so far only as the

railways and a minor branch of the water transportation system are concerned. Therefore air transport and the greater part of water transport are not included in Parliament's present policy of co-ordination and harmonization.

In 1947 Parliament passed further legislation creating the Canadian Maritime Commission. While this Commission cannot be considered a regulatory body in the same sense as the Board of Transport Commissioners and the Air Transport Board, its powers and duties affect water transport in some respects; for instance it examines, ascertains and keeps records of the shipping services between Canadian ports and from ports in Canada to ports outside Canada that are required for the proper maintenance and furtherance of the domestic and external trade of Canada, Section 7(a). It also administers the subventions for coastal steamships which Parliament votes each year. In its administration of these subventions the Commission enters into contracts with the companies, containing provisions as to the tolls charged by them.

The fact is therefore that while Parliament made provision in 1938 for a Board of Transport (instead of Railway) Commissioners it did not go as far as it might have gone towards bringing about complete co-ordination of "all carriers engaged in transport". And the trend of legislation in recent years has been away from integration and co-ordination; so that now there are three bodies instead of one regulating transportation.

Nevertheless several submissions were made at the hearings of the Commission asking that steps be taken to bring about what was called "the co-ordination and regulation" of all forms of transport. This of course must be taken to mean all forms of transport within the jurisdiction of Parliament. Special mention was made of the desirability of bringing trucks within the same control and regulation as the railways. And here a great obstacle lies in the way. By far the largest part of truck traffic is intra-provincial, and most of this intra-provincial traffic consists of private trucking, that is trucking done by individuals and commercial firms in the handling of their own articles of merchandise. Only a small percentage is trucking for-hire. All this intra-provincial truck traffic, both private and for-hire is beyond the jurisdiction of Parliament, and this fact presents a barrier to co-ordination and integration of highway and railway services.

There is a disposition in some quarters to find fault with this state of affairs and to express the opinion that the situation is undesirable and should be brought to an end. But such situations are bound to arise in a country such as Canada where there is a division of jurisdiction between a central authority and several local authorities. Provinces could not exist as such unless they had certain legislative and executive rights which cannot be taken from them. The consequence is that there cannot be a national policy properly so-called embracing matters which are of exclusively provincial jurisdiction. Education, for instance, is a subject which in countries of one legislature is regarded as being a most effective instrument of uniform national policy. But Canada cannot have a national policy in education because each province is supreme within its own territory in all questions affecting this subject. And so it is with transportation. It is hard to see how provincial transportation (as it may be called) can be handed over to the control of the Parliament of Canada without an amendment to the constitution. But even if the change could be brought about more readily, the first question to be asked here is, where do the several provincial governments stand on this proposal at this time?

The seven provincial governments which united in asking for the appointment of this Commission were questioned on this matter. Of the seven, six stated that they would not agree to divest themselves of their exclusive jurisdiction over intra-provincial motor transport. The only province to speak somewhat differently was Saskatchewan, whose government said that it would transfer to

the Government of Canada the control and regulation of rates for commercial trucking within its borders on two conditions: (1) that provincial revenues should lose nothing by the transfer, and (2) that the Government of Canada should provide at its expense for the building of hard-surfaced roads in the Province. The Provinces of Ontario and Quebec were not represented before the Commission, but there is no reason to believe that either of them would agree to hand over its jurisdiction in this matter to the Federal Government. Newfoundland made no reference to the subject.

This attitude of the Provinces gives no ground for the hope that central, uniform control and regulation of all transportation, including provincial transportation, is realizable in the near future.

Notwithstanding the existence of this barrier of provincial opposition, it will be well to state briefly the views expressed on the subject.

The Canadian Manufacturers' Association would like to see legislation similar to the Railway Act made applicable to all forms of transportation; but the Association, recognizing the provincial opposition to federal jurisdiction as standing in the way of central control, expresses the opinion that the provinces should unite in enacting uniform legislation regarding trucking.

The Ship-by-Rail Association, the Canadian Industrial Traffic League, the Maritime Board of Trade, the British Columbia Feed Manufacturers' Association, the Vancouver Board of Trade, the British Columbia Paper Manufacturers and Converters and the Saguenay Council on Economic Planning are all in favour of regulation, but all recognize that this regulation, under present conditions, must remain with the provinces. Some of these bodies favour the situation being left as it is, others would like to see a central controlling body established.

The Dominion Joint Legislative Committee of the Railway Transportation Brotherhood recommend "that uniform and effective regulation and control be now applied to all forms of transportation for-hire, including that on highways". The Committee confined its recommendation to the regulation of for-hire trucks, and does not wish to impose restrictions on the operations of private trucks.

The Canadian Congress of Labour recommends: (1) that each type of transport be assigned to the task it can perform most economically; (2) that all transportation services be under the control of the Board of Transport Commissioners; and that the British North America Act be amended to make these things possible.

The International Brotherhood of Teamsters is opposed to federal control of trucking.

The Canadian Automotive Transportation Association opposes the regulation of trucking by a central authority. It says that this system would work against the public interest because it would mean the regulation of trucks for the benefit of the railways.

The only practical subsisting question in respect to the regulation of motor transport by federal legislation has to do with interprovincial and international traffic. If it is to be assumed that the authority of Parliament extends to the control of these forms of transportation the question to be considered is whether it is in the public interest that such control should be established. In the present state of the law this control could be established by adding in the first place to the words "all carriers engaged in transport by railways and ships," in Section 3(2) of the Transport Act, the words "and by motor vehicles in interprovincial or international traffic" or words of similar import. The effect of such an amendment would be to place these vehicles in the same position as railways and ships. It would thereupon become the duty of the Board of Transport Commissioners to co-ordinate and harmonize their operations with those of these other carriers.

These carriers would then lose some of the freedom of action which they have to-day, but, on the other hand, they would acquire a status which they do not now enjoy. The railways would still have them as competitors, but they would be regulated competitors. Whether or not this new arrangement would work out to the advantage of the railways, as seems to be generally assumed, would remain to be seen in the light of experience.

In the United States the Interstate Commerce Commission regulates motor vehicles engaged in interstate traffic, with certain exceptions. Such traffic forms a greater proportion of the country's total motor vehicle traffic than is the case in Canada. This is because of the large number of States in the Union (48) of smaller territorial extent than the average Canadian Province and the consequently large volume of interstate traffic, especially in regions such as those comprised in New England and the Atlantic States. Truck carriers are divided into three classes: common carriers, contract carriers and private carriers. Rates are regulated in respect only of common carriers and contract carriers. The Act requires common truck carriers to publish "fair and non-discriminatory rates" subject to change only on thirty days' notice, and the Interstate Commerce Commission is given power to prescribe maximum and minimum rates for them. Contract carriers are required to file minimum rates, and, in their case, the Commission is empowered to prescribe minimum, but not maximum, rates.

It is well to point out here, that according to estimate there are in all Canada not more than 1,500 trucks engaged in interprovincial and international traffic, out of a total of about 50,000 for-hire trucks.

In 1937 and again in 1940 bills were introduced into Parliament providing for federal control of interprovincial and international trucking. These bills met with strong opposition and were finally withdrawn.

All forms of trucking have increased considerably since 1937. The time has come when Parliament might well reconsider this question of control. There seems to be no valid reason why those who carry on a business over which Parliament has jurisdiction (assuming this to be the case) in competition with others who are regulated in respect to their rates and operations should not be asked to submit to a similar form of control. This, of course, does not mean that any one form of transportation should be regulated only for the benefit of another.

#### RE-ORGANIZATION OF CONTROL

In so far as Parliament can regulate and control transportation, the object should not be confined to the rather negative work of correcting abuses, but should reach out to the positive constructive task of developing adequate and efficient transportation services and of "co-ordinating and harmonizing" the service in the public interest. The regulation of railways can best be exercised by combining it with the regulation of the other agencies of transportation. It is true that Parliament's lack of jurisdiction over intra-provincial transportation presents a major obstacle to the full attainment of this most desirable object. It is of course permitted to hope that the provinces will some day agree to co-operate with the Federal authority in the carrying out of a common policy of co-ordination. Until that day comes, however, there is no reason why Parliament should not proceed as far as its authority extends towards the establishment of a national transportation system functioning under the control and regulation of an efficient supervisory board. The several means of transportation—railways, waterways, airways, (highways), and now pipe lines—are distinct agencies that are inseparably inter-related. They should be so regulated as to serve not only individually but collectively in meeting the country's needs. As an instance of something now requiring attention, it might be pointed out that

the place of water carriers in the country's transportation system as a whole should be more definitely determined in order that they may be enabled to take their proper place as a part of the country's transportation system.

All this leads to the question whether the policy of close co-ordination and central control to which Parliament seemed inclined to commit itself in the Transport Act of 1938, should not be invoked once again with the view to its extension rather than to its restriction which has been the trend of more recent enactments. If this policy of 1938 can be revised and made effective it should properly have its beginning in the establishment of a strong control organism capable of taking the task in hand. Today there are three separate bodies, each charged with the control (a more or less extensive control in each case) of a part of Canada's transportation system. They are the Board of Transport Commissioners, the Air Transport Board and the Canadian Maritime Commission. It must be difficult, with this dispersion of control, to apply to all of Canada's transportation agencies like principles of regulation for the accomplishment of a common purpose, viz. that of enabling each agency to perform its service advantageously and properly as part of a national transportation structure. The tendency of a separate independent body is to formulate policy affecting transportation without regard to the relationship of the various agencies to each other. This anomaly should give way to the constitution of a Central Authority which will be able to take in hand the major task of co-ordinated control, having at its disposal all the benefit acquired from the experience of the separate bodies in recent years.

The adoption of this policy would bring together the three above named bodies, re-organized and united and devoted henceforth to the pursuit of a well planned policy for the co-ordination and regulation of transportation.

(To avoid misunderstanding it is well to note that nothing suggested here is intended to affect in any way the functions of the Air Services Branch of the Department of Transport, which should continue to exercise its powers and duties as at present.)

An important consideration in favour of the unification here proposed is that of staff. The regulation of transportation has become a highly complex and technical subject, which requires the help of experts in many fields of work. It cannot be expected that the members of a board, however carefully they may be chosen, will be versed in all the branches of knowledge which must be available for the satisfactory disposal of business and the settling of all issues between parties. Substantial reliance must be placed on expert assistants. It is therefore necessary to have at hand the best advice and consequently the best staff possible, proper consideration being given to necessary limitations of expenditure. The enumeration of the types of different staff duties, such as traffic, economics, statistics, accounting, licensing and secretarial work, indicates the desirability of unifying these activities under one authority. Apart from consideration of staff efficiency and the proper performance of duties, it seems certain that the consolidation here recommended would result in an appreciable saving of salaries and expenses.

## ACKNOWLEDGEMENTS

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The whole of the foregoing is respectfully submitted.

W. F. A. TURGEON,  
*Chairman.*

H. F. ANGUS,

H. A. INNIS,  
*Commissioners.*

Dr. H. F. Angus's concurrence in this report is given subject to his reservations to certain parts thereof referred to in his "Reservations and Observations" which follow.

## RESERVATIONS AND OBSERVATIONS BY DR. H. F. ANGUS

## RESERVATION TO THE CONCLUSIONS OF CHAPTER I ON ECONOMIC, GEOGRAPHIC AND OTHER DISADVANTAGE OF CERTAIN SECTIONS OF CANADA

I regret that I am unable to associate myself with the Conclusions reached by my colleagues in this Chapter, without making one reservation:

The complaints made by the provincial governments seem to me to concern the effect upon their people of national policies rather than the physical fact of distance from markets and sources of supply. They do not challenge these policies which comprise not only the tariff but the very maintenance of Canada as a separate nation; but they complain that too little has been done to compensate those who suffer economically as a consequence of these policies. This is not a complaint against the railways. It is a complaint against the federal government which, in effect, is asked to subsidize the railways in order to enable them to forego high freight rates.

## RESERVATION TO THE CONCLUSIONS OF SECTION 2 OF CHAPTER II ON RATE BASE AND RATE OF RETURN

1. While I agree with my colleagues in not recommending the amendment to Section 325 of the Railway Act proposed by the Canadian Pacific Railway, I am unable to subscribe to the reasoning in the part of the Report dealing with Rate Base and Rate of Return. It is necessary to make this clear because parts of this reasoning might stand in the way of views which I shall have occasion to express concerning the aggregate revenue which rates should yield in order to be just and reasonable to the railways and at the same time to shippers and consumers.

2. My own reasons for not recommending the proposed amendment are:

(a) The plan of recapitalization which we have recommended for the Canadian National Railways does not involve the dangers against which the proposed amendment was designed to protect the Canadian Pacific Railway. The amendment is, therefore, unnecessary.

(b) Although the Board may find it convenient to use the rate base and rate of return method of determining the revenue which the Canadian Pacific Railway should receive, I do not think that the use of this method should be imposed upon it by statute unless some of the highly controversial issues surrounding the construction of a rate base have first been settled.

## OBSERVATIONS ON RELATIONS BETWEEN RAILWAY COMPANIES AND EMPLOYEES

A comprehensive transportation policy should pay due regard to the interests of labour which is as much entitled to just and reasonable treatment as shippers or investors. In Canada this problem has not been tackled directly and railway labour, in particular, has been regarded as a cost which it is the duty of management to keep as low as possible. Labour has had to rely on its bargaining power and ultimately, therefore, on its ability to stop railway operation by a strike. The Industrial Relations and Disputes Investigation Act extends to railways and establishes procedures of bargaining and conciliation which must be followed before a strike or lock-out may be declared.

Since the war there has been a general demand for a shorter working week and better conditions of work, while the inflation has led inevitably to a demand for higher wages in terms of dollars. In the case of the railways this pressure



has coincided with difficulties which have been considered elsewhere in this Report: A fall in the volume of traffic and a change in the rate structure imposed by truck competition. The result has been a great (and, perhaps, exceptional) strain on the procedures provided by The Industrial Relations and Disputes Investigation Act. It was some time after the conclusion of our hearings that this strain culminated in a strike which was ended by *ad hoc* legislation imposing compulsory arbitration.

If the matter were to be left at this point we should, in effect, though not in form, have compulsory arbitration as a final stage in disputes which affect railway labour. It is compulsory arbitration in an extremely tactful, but also in an extremely expansive and inconvenient, form. It is based on the intolerable inconvenience of a cessation of railway operation and, on this ground, recognizes a distinction between railways and other enterprises, which is not known to The Industrial Relations and Disputes Investigation Act.

The effect of this development on future labour disputes remains to be seen. Railway management cannot afford to yield too readily to any demands, however reasonable, or it may be denied the consequential increase in freight rates for which it will have to apply to the Board. The best way of demonstrating its efficacy as a bargainer would be to concede nothing more than what conciliation proceedings under the Act may recommend and to allow any difference between a conciliation award and the demands of labour to go to arbitration by the trail blazed by a strike, a special session of Parliament and *ad hoc* legislation. If these awkward procedures could be simplified with fairness to all concerned the advantages are obvious.

Such discussion of railway labour as took place in the course of the hearings preceded the recent strike. With the exception of labour itself the parties were primarily concerned with keeping freight rates as low as possible. They had, therefore, to question both the net income to which the railways were entitled and the wages and conditions of work to which labour was entitled. No practical submissions were made, but the general view seemed to be that it was the duty of railway management to drive as hard a bargain as possible and the responsibility of the Board to satisfy itself that this duty had been discharged. The railways did not complain of the bargaining procedure in itself, but they did complain of the time-lag between increases in wages and increases in freight rates.

If it were conceded that the railways were entitled to some just and reasonable net income, or that a "Yardstick" railway should have a definable permissive income, the position of labour would be to some extent clarified. As long as it was economically and legally possible for the yardstick railway to earn its permissive income any increase in labour costs would be passed on to shippers and consumers in higher freight rates. The net income of the railway would act somewhat as the fluid in hydraulic brakes acts. Its merit would be its relative incompressibility, and its inability to expand.

It would follow that the parties interested in wages, or labour costs, would be labour on the one hand and shippers or consumers on the other. Railway management would have at most a contingent interest: an interest which would arise if freight rates were raised to their economic ceiling, the point at which higher rates would not yield a higher income.

It would also be quite clear that the labour disputes affecting railways differed from other labour disputes in a number of significant ways:

- (a) Railways, unlike other employers, sell their services at controlled prices;
- (b) Up to a point the net income of the railways will be protected by raising these controlled prices, (or by subsidies if a control is maintained for reasons of public policy). To this extent the increases in labour costs will be passed

on to users of railways (or to taxpayers). But assume that the railways had conceded in bargaining all that the recent arbitration gave. Would the Board have honoured their undertaking?

- (c) Railways, unlike industrial employers, cannot discontinue the less profitable portions of their operations because of rising labour costs. Railway labour cannot "price itself out of its market."
- (d) Railways, unlike some other employers, never have large surplus revenues from which part of an increase in labour costs can be met;
- (e) Bargaining between railway management and labour is imperfectly bilateral: railways cannot lock-out their employees;
- (f) If strikes occur they put pressure on shippers and consumers rather than on employers. This pressure is very great and provokes legislation in the course of a few days.

These factors would seem to justify some differences in the procedures for determining wages and conditions of work. The apparent bargaining power of railway labour is excessive and is directed to the wrong address, i.e. labour bargains with management by pressure applied to the public. But, if arbitration were compulsory in practice, labour would have less real bargaining power than in most occupations and everything would depend on the outlook of the arbitrators. There was, for instance, a significant difference between the conciliation award and the arbitration award in the recent labour dispute. The problem is, therefore, to find some middle way between complete freedom of bargaining on the one hand and compulsory arbitration on the other.

A permanent solution of this problem would have to satisfy several conditions. It would have to be accepted as fair by railway labour. It should remove the apprehension, expressed at our hearings, that railway labour would use unlimited bargaining power to impose conditions which would be grossly unfair to other recipients of income in Canada. It should exonerate railway management from the invidious duty of satisfying the Board that no one could have driven a harder bargain. It should relieve the Governor in Council and Parliament from the duties which they have had to assume in recent disputes.

Two lines of development seem worth exploring. Both aim at giving more reality and more prestige to Conciliation procedures which seem to have become a mere stage in bargaining. The first would consist in bringing the real contestants face to face and allowing the parties interested in lower freight rates to participate in the proceedings. A Board of Conciliation might, in the case of railway disputes, consist of five members, of whom two would be nominated by labour, and one by railway management, while one would be appointed to represent the users of railways. And users, or their spokesmen, might be allowed to present arguments to this Board.

This plan would enable users to express their views while negotiations were still in progress. There would be some difference between the weight of a majority decision supported by users and one opposed by them and this indication of their views might have some influence on further negotiations.

An alternative would be to have not one but three "neutral" or "impartial" members on the Conciliation Board so that its findings would not appear to reflect the outlook of one man. If all three neutral members were of one mind they would carry great weight with the public. If they differed, the public would be better informed of the merits of the dispute than if it were confronted with what was in effect, a one-man decision. The conciliation award is not final. It is essentially persuasive. It would be made as persuasive as possible. Even a difference of opinion may serve to close the gap within which there is a reasonable difference and may in this way guide further negotiation.

The hearings disclosed that there were two possible standards for railway wages in Canada and that the difference between them was, in the aggregate, greater than that between the highest claims to permissive income made by the railways and the lowest claim which was generally conceded. One view is that railway wages should conform to those paid in the United States which are at present much higher. The other is that they should conform to the wages of comparable occupations in Canada. It is easy to find fault with either view. To raise railway wages to the levels prevailing in the United States would create a highly privileged class of labour in Canada. To use the wages of comparable occupations in Canada as a standard would be to rule out the possibility that railway labour should, sometimes at least, be the pioneer in raising these standards. Just as it would be in itself desirable to close the gap between the conflicting conceptions of permissive railway income by some authoritative definition; so it would be to close, by consent, the gap between these two standards for railway wages. The first step would seem to be the adoption of some procedures for determining wages which would be somewhat more judicial than the "pull-devil, pull-baker" method. The two suggestions which have been outlined have this objective in view.

#### OBSERVATIONS ON THE RAILWAY PROBLEM IN CANADA

1. The following paragraphs are intended to supplement the specific conclusions set out in the Report by giving my own views on railway problems in general. My aim is to look beneath the symptoms of discontent appearing in the submissions to the Commission and to discover some basic principles; to endeavour in short to see the wood as well as the trees.

2. Throughout these Observations emphasis is placed on the desirability of clarity and intelligibility in Canadian railway policy. The end to be attained is that the various parties interested in railway transportation should be conscious not only of their conflicting interests but also of the common interests which transcend these conflicts. Shippers and consumers; labour and shareholders; regional interests and federal taxpayers; the Canadian Pacific Railway and the Canadian National Railway are alternately adversaries and partners. All eight of these parties have a common interest in the maintenance of an efficient system of railway transportation. No one of them expresses his entire objective when he is engaged in negotiations or disputes with one or more of the others. Our own hearings were treated by the parties concerned more as a forum for advancing claims than as a round table for the development by consent of a mutually acceptable policy. If some basic questions can be settled with finality, an occasional friendly conference arranged by the parties concerned might do something to dispel myths and legends which are no longer true and to develop an atmosphere without which constant and costly misunderstandings seem all too probable.

3. What we have done may be compared to equipping the road which the Board of Transport Commissioners must follow with red, green and yellow lights; recommending that some things should be forbidden, others proceeded with and others approached with caution. What we have left undone may be compared to floodlighting the whole road—including those portions which no one has brought to our attention—in order to facilitate the day to day working of the Board and perhaps even make our railway transportation policy intelligible to the people of Canada.

4. In a healthy and mature economy the railway freight rates which shippers pay, together with the fares paid by passengers, should provide the carriers with revenue which will cover their costs, including a reasonable return on their capital, but should not enable the carriers to make exorbitant profits. A rate structure which produces this result can be said to be just and reasonable to the

public and to the railways alike. In its perfect form it would resemble a co-operative enterprise by which various types of shippers, by combining their purchases of transportation services, all obtained rather lower rates than if they acted independently. No shipper would pay less than the out-of-pocket cost of the services he received and none would pay more than the value he attached to the services. The lower of these limits may occasionally be disregarded for reasons of public policy. The higher limit can never be exceeded and it may at any time be reduced if some cheaper means of transport becomes available.

5. Some element of public or national policy is almost always present in a rate structure. It can be seen on a small scale when passengers are carried on branch lines at the same rate per mile as on lines of much greater density, or on a large scale when an entire railway is built with the expectation that it will never yield a revenue which covers its operating costs and provides a fair return on the capital invested in it. It can be seen, too, when some rates are fixed by law so that the burden of any increase in the cost of railway transportation must be borne by some other rates.

6. A rate structure may be designed so as to enable carriers to meet their cost, earn a fair return on their investment and also perform various services at less than cost or even, on their own initiative, undertake enterprises beneficial to the whole economy. While a purist might object that in calling rates which cover these services "just and reasonable" the Board is in effect imposing a tax on shippers to defray their cost, no one is likely to worry so long as the "taxation" is small and the "taxpayers" indeterminate. But arrangements of this sort are likely to be challenged if shippers have to face an increase in rates or railways a decline in their profits.

7. Indeed, national policy in transportation matters, when it appears on a large scale, is not likely to be financed at the expense of shippers. It is not unusual for a state-owned railway to be operated at a loss or, at any rate, without earning a return on the capital supplied by the state; and sometimes an inducement is offered to a privately-owned railway in order to make private interest coincide with national policy. In both these cases the cost of the national policy is borne by the taxpayer.

8. In the course of our hearings various classes of shippers have contended that the railways should be operated as instruments of national policy and that part of the cost of transportation should be borne by the taxpayer. Counsel for the Canadian Pacific Railway argued that "subsidies are uneconomic". Both these views are open to criticism. There are obvious limits to the extent to which national policies can be invoked by particular interests, whether regional or occupational and even the most unchallengeable of national policies may require the use of subsidies to effect a purpose which is seldom, if indeed ever, purely economic. The construction of the Canadian Pacific Railway itself is a case in point. Subsidies may constitute a link between national policy and private enterprise.

9. Taxpayers would object to being called on to finance too many national policies. But the interests of shippers in their business probably outweighed their interests as taxpayers. As federal taxes only were involved no protest was to be expected from those provincial governments which feel that their people have more to gain by federal expenditure than to lose by federal taxation. Most of the provinces which appeared before us were in this position. Quebec and Ontario were not represented at the hearings, nor was the federal taxpayer.

10. A rate structure, once established, is an important factor in determining the economic location of industry and any change in an established structure is likely in the long run to affect the location of industry by making some enterprises

vulnerable to competition. There are, therefore, vested interests opposed to any substantial change and insistent that, as a matter of national policy, it should be avoided or neutralized.

11. At the present time a substantial change is taking place in the Canadian rate structure. As in other countries, trucks (whether operating as carriers for hire or owned by shippers) have deprived the railways of much of the revenue which they had previously derived from the carriage of commodities of relatively high value for relatively short distances. The loss in revenue has to be made good from traffic which is not vulnerable to truck competition and, therefore, principally from the carriage of relatively low valued commodities for relatively long distances. In Canada, more perhaps than elsewhere, the result has been to impose a serious burden on the economies of outlying regions. A demand has arisen that national policy should be directed to arresting this change in the rate structure and that the federal taxpayer should, in effect, come to the assistance of the long-haul shipper of primary products.

12. Something approaching a crisis has occurred as a result of a great increase in the cost of railway transportation which has coincided with fear of a recession from the high traffic volume attained during the later years of the second world war. This increase of cost has forced the railways to seek additional revenue which must of necessity come largely from rates not acutely vulnerable to truck competition. It can come from competitive rates only if the costs of competitors have increased commensurably with the costs of railways.

13. One effect of the crisis has been to revive interest in the possibility of counterbalancing these increases in the cost of railway transportation. In principle cost might be reduced in one or more of several ways: (a) by amalgamation or unification of the railway systems; (b) by enforced co-operation between them; (c) by the elimination of unremunerative services; (d) by technological changes. These possibilities will be examined separately. It should be noted that they have one important feature in common: they all contemplate economies in the employment of labour by requiring fewer man-hours. It should also be noted that if the primary alternative to a reduction in the cost of operation lies in the payment of subsidies, it is the federal taxpayer who is primarily interested in whether economies are effected or not. We have not had the benefit of the taxpayer's views. Shippers are not vitally concerned with reducing a bill which they do not expect to have to pay.

14. Amalgamation has few friends. Various forms of joint operation have been carefully considered and condemned. It is true that the estimate of the future earning power of the Canadian National Railways made by its officials at the hearings was so low that a weary taxpayer might have wondered if a lease to the Canadian Pacific Railway on mutually advantageous terms would have its attractions. The alternative of state ownership of all railways has merits which have commended it to most modern states. But economy of operation, though physically possible, is not among these merits. As an immediate practical policy in Canada both these alternatives can be dismissed.

15. The mild form of co-operation between the Canadian National and Canadian Pacific Railways, enjoined by the Canadian National-Canadian Pacific Act, has been examined in the main body of the Report. The further economies which are expected from this source are very small and it is worth noticing that extensive claims have usually been made only when there was some discussion of amalgamation.

16. The elimination of unremunerative services may take the form of reduction of services or of abandonment. Usually there are vested interests which oppose either of these economies. Theoretically the case for any proposed abandonment is strengthened whenever the cost of railway transportation increases. In effect the opposition amounts to a contention that the service,

in spite of its unremunerative character, should be maintained for reasons of public policy. The question is semi-political for there seems to be no way of making those who want the services pay for the cost of providing them.

17. Less objection is usually taken to technological improvement. But most improvements require the investment of new capital and the economies are ordinarily not immediate. For new capital to be forthcoming it must be assured of a fair return, and no such assurance is convincing unless the capital already invested is receiving a fair return, or unless some security which ranks before common stock can be sold.

18. An increase in the volume of traffic, such as has occurred with the progress of rearmament, may also be looked on as something which decreases the unit cost of transportation or prevents that cost from increasing. It is the only type of reduction in cost which does not involve a reduction in man-hours of employment. If it could be expected with confidence over a long period of time what has been called the crisis in railway transportation would disappear. A period of rapid and sustained economic expansion might permanently transform the whole problem of railway transportation in Canada.

19. Apart from the possibilities which have been reviewed in the five preceding paragraphs, the increase in transportation costs must be accepted as a fact and dealt with by providing the carriers with revenue. Its main cause has been the general increase in prices and wages commonly called inflation. Canadian inflation has, happily, little but the name in common with the disastrous inflations which have occurred in countries ravaged by war. It was even possible for witnesses to contend that rates fixed in terms of dollars twenty-five years ago should remain unchanged, or that rate differentials existing before the second world war should remain constant in terms of dollars. However, even the Canadian inflation has benefited some industries and injured others. Few manufacturers, for instance, complained of increases in freight rates. Inflation has taken some time to exert its full effect on railway costs and its most spectacular effects on those costs have taken the form of wage increases. This process is still continuing. It should be distinguished from increases in cost incidental to shorter working hours for shorter hours are not a necessary consequence of price increases.

20. The inflation magnifies, in terms of dollars, any changes imposed on the rate structure by truck competition and also any anomalies in the rate structure. Its main effect is probably psychological. Everyone accepts with equanimity and explains plausibly any changes in price which enlarge his income, and complains bitterly of any changes which increase his expenses. Everyone tends to discount as transitory any advantage which he may receive from inflation and thinks of the disadvantages as more likely to persist. Particularly is this true of the high prices which producers of primary products may receive, on the one hand, and the freight rates which they are called on to pay, on the other. Frequently, in the course of the hearings fear was expressed that prices would collapse but that freight rates were here to stay.

21. There were other sources of apprehension as well. The enormous bargaining power of labour inherent in its ability to tie up the transportation services on which the very life of the country depends filled some witnesses with alarm. While there was no evidence that this power had been used in an irresponsible, or even in an arrogantly selfish way, it was feared that it might be so used.

22. Side by side with fear, as a psychological factor in the problem of railway transportation, should be placed the well established myth of regional injustice which flourishes in some regions and which can be at times the root of disheartened self-pity.

23. These psychological factors, which are never quite without some plausible basis in fact, help to create an atmosphere in which distrust and suspicion

predominate and there is an irresistible temptation to pick on someone, be it the railways, be it labour, or be it Central Canada as the wrong-doer. The readiness of governments, and indeed of the railways themselves, to come to the assistance of an industry in distress is forgotten. The result is that there is little sympathetic understanding of the difficulties of others and little readiness to face what is after all a common problem in a spirit of mutual forbearance and mutual aid. It is only by making Canadian railway policy intelligible to the people that more cordial relations can be created. To be intelligible the policy must itself be clear.

24. The crisis in railway transportation, magnified, in appearance at least, by the inflation and by fear of further increases in the cost of railway operation, has been aggravated by the position of the two major railways. The Canadian National Railways is state-owned. Any deficiency in its revenue is met sooner or later by federal taxpayers because it takes the form of inability to pay interest on bonded debt. If public interest required it this railway system could operate with rates which did not cover its costs. For instance, the Board might fix rates which cushioned the shock of the inflation to the industries of Canada or postponed the adjustments in the rate structure made necessary by truck competition. The Canadian Pacific Railway is privately owned and cannot be expected to forgo adequate revenues, if it is economically possible to obtain them. Indeed it cannot exist without adequate revenue. The smaller railways are in a similar position. It follows that the general rate level must be set with the needs of the Canadian Pacific in mind. No other standard has been seriously suggested.

25. While it is possible to imagine conditions under which some other standard might be used, it is hardly possible to imagine these conditions arising without the general position of Canadian railways requiring new legislation to guide the Board. Admittedly the future is unforeseeable. But the action of today must be based on probabilities. There is no probability of the Canadian Pacific Railway ceasing to be the "yardstick" for rate-making.

26. It is doubtful if the change in the position of the Canadian Pacific from being one railway among several whose needs had to be considered to being the unique standard by which the general level of rates can be judged, was foreseen when the Canadian National Railway System was created. It is quite possible for a state-owned railway system to be the sole standard for setting rates, as indeed is the case in the United Kingdom today, where a definite revenue requirement has been set by law. It is equally possible to set rates with regard to the position of a large number of railways which are privately owned, as is the case in the United States. Each railway is left with an incentive to make the largest revenue it can within the freight rate level set for all. But it would be impracticable to set a level for a privately owned railway which was the only railway in the country, without making that railway a strictly regulated public utility. The same thing is true if a privately-owned railway (even though it is not the only railway) is of necessity the sole standard for fixing rates, subject to the ability of railway users to pay. Such a railway occupies a peculiar position. It is bound to become a strictly regulated public utility and it is in danger of being the direct object of attack by all those interests in the country which desire low freight rates. The Canadian Pacific was never intended to be such a railway but that is what it has become. Failure to recognize this simple fact can lead to much confusion of thought.

27. The peculiar position of the Canadian Pacific is not generally accepted and there is general reluctance to recognize it except as transitory or provisional. It is easy to understand this reluctance. The railway itself cannot wish to be treated as a strictly controlled public utility, used as a standard in setting rates and compelled to bear the brunt of all attacks on freight rates. Incentive lies at the heart of private enterprise and to renounce the possibility of incentive

is unpleasant. Shippers, on the other hand, are reluctant to renounce the possibility of some outside standard by which the revenue requirements of the Canadian Pacific might be reduced. Parts of the country where the Canadian Pacific does not operate at all may resent rate levels designed, in form at least, to meet its requirements. There is every temptation to disregard or conceal the position of the Canadian Pacific Railway by ingenious circumlocution or by legends from the past. In the 21% Case the Board repeated what it has said in the Western Rates Case: "Our function is to set rates which are just and reasonable irrespective of what any company is worth or is not worth". Rates are said to be just and reasonable "to the railways". Increases are needed to "redress an imbalance" between costs and revenues. It is even suggested that the Canadian National Railways may some day develop to a point at which its requirements may be taken into account in setting rates. Yet there is much to be gained by facing the unpalatable fact boldly and dealing with it frankly and definitely.

28. The advantages of placing beyond dispute the net income which the Canadian Pacific Railway should have an opportunity of earning from its railway operations are substantial.

(a) A most contentious topic would be removed from general revenue cases and these could then be handled with greater expedition as we have recommended elsewhere.

(b) A standard would be established by which the future earning power of the Canadian National Railways could be estimated and on which a rationalized recapitalization of that railway system could be based.

(c) The crucial problem of how to provide the railways with adequate revenues without imposing too great a burden on the economy, or any section of the economy, could be isolated and dealt with as what it plainly is: An issue between those who use the railways, those who depend upon them for their livelihood, and the taxpayers.

(d) Once the prospective earning power of the Canadian Pacific Railway is established the problem of ensuring the availability of new capital can be attacked realistically.

(e) In short the financial aspects of the railway transportation system of Canada would be clarified and made intelligible to the general public, with great advantage to all parties in promoting goodwill and mutual understanding.

29. Desirable as it is to establish a permissive income for the Canadian Pacific Railway it is no easy task. There are obvious difficulties common to all railways: The choice between historic investment and present value as a basis for determining the capital investment; the proper computation of costs; and the determination of a rate of return which will be flexible enough to take into account both the occurrence of "fat" and "lean" years and the need for incentives which will protect far-sighted investment that foregoes present gains in the hope of future profit. In addition there are serious difficulties peculiar to the Canadian Pacific Railway. It was not designed as a public utility yet that is what it has become in so far as its railway operations are concerned. It was certainly not designed as a standard for setting the general level of freight rates in Canada, and, even after freight rates in general were made subject to the jurisdiction of the Board, the accounts of the Canadian Pacific Railway were not kept on the assumption that it was to become the measure or yardstick for freight rates in Canada. Indeed, it was hardly contemplated, at that time, that the Board would have to concern itself with the general level of freight rates, for this problem had not yet arisen.

30. Now that the Canadian Pacific Railway has, of necessity, to be used as a yardstick for the general level of freight rates some important and contentious issues must be settled. These issues include:



- (a) The interpretation to be placed on the transactions between the Canadian Pacific Railway and the Government of Canada, in so far as they affect the extent of the investment on which a return should be earned;
- (b) The obligations, if any, incumbent on the railway as the result of the assistance received in the construction of the Crowsnest Pass Line;
- (c) The distinction between the railway investments and railway income of the Canadian Pacific Railway on the one hand and the non-railway investment and non-railway income on the other.

The Canadian Pacific Railway contends that it is entitled to earn from its railway operation alone a fair return on the capital invested in its railway properties. The critics do not concede this claim and they take a different view from that of the railway of the extent of the investment.

31. If crucial decisions have to be made on these issues it is, as matters stand today, the Board which must make them, subject to appeal to the Governor in Council and, on questions of law, to the Supreme Court. Yet it is doubtful if it was ever contemplated that the Board should deal with matters of this sort. In the course of nearly half a century it has shown little disposition to do so. If an issue of this magnitude has to be faced there is a strong case for giving the Board legislative guidance. It must be borne in mind that the decisions will affect the fortunes of all privately-owned railways and the earnings of the Canadian National Railways as well. They are decisions of a permanent nature and it is difficult for them to receive due consideration in the course of a specific revenue case.

32. It would be in accordance with sound principles for decisions of such major importance to be made by Parliament itself. It alone can speak with finality. It might enact legislation to confirm an agreement reached between the Government of Canada and the Canadian Pacific Railway; or it might ratify decisions which had been referred to arbitration; or it might act on the advice of the Board itself. The simplest type of action would be to define by law the railway investment of the Canadian Pacific Railway as of some definite date leaving it to the Board to see that subsequent investments and subsequent depreciation were duly recorded and to determine from time to time what rate of return should be allowed, whether in a particular year or "taking one year with another". The result would be to fix, within flexible limits, the permissive income of the Canadian Pacific Railway. While economic conditions might lead to a low income being fixed in a specific year, or to the railway being unable to earn its permissive income, it would be made clear that no limitation should be imposed, either by legislation or by action of the Board, which made the attainment of the permissive income impossible. But such a limitation might be imposed as a matter of public policy provided that adequate compensation were paid so that the ability of the railway to earn its permissive income was not impaired.

33. In fixing a rate of return to be applied to a rate base which had been independently and definitively determined, the Board would not have to raise anew the issues of which legislation had been designed to dispose. Indeed, it would not have to consider the individual characteristics of the Canadian Pacific Railway. It would fix the rate which it considered appropriate in the circumstances for a railway to earn on its investment. In so doing it would have to face the problem of "fat" and "lean" years and the problem of incentives. But there would be no question of multiplying the rate base (determined by legislation) by the rate of return suggested by the railway in order to see whether the result would be to give the Canadian Pacific Railway an income adequate for its "requirements" or an income which would enable it, in the market of the day, to sell its common stock at or above par.

34. The assurance of an opportunity to earn a definite income does not necessarily imply that the prospect of earning that income should be attractive to new equity capital. Yet a sound transportation policy in Canada requires that the privately-owned railway shall be able to raise the capital needed to maintain the quality of its services without recourse to measures which are financially unsound. Alternatives to increasing the permissive income would include: The issue of equity securities below par; the purchase of equity securities at par by the government of Canada which could borrow the necessary funds for less than it would expect to receive by way of dividends; and the purchase of income bonds by the Government. Once a permissive income had been determined any one of these methods could be used if necessary without there being any suggestion that the railway was being subsidized.

35. In fact, the determination of a permissive income for the Canadian Pacific Railway would have the advantage of placing in their true light any subsidies which Parliament might be prepared to grant at any time in order to relieve the burden on freight rates. Such subsidies would not increase the permissive income of the Canadian Pacific Railway but they would provide a portion of it thus reducing the amount which would have to come from freight rates. They would, therefore, be in no sense subsidies to the railway even if they were paid in lump sums annually. They need not be related to any particular rates or to rates in any particular region. The Board in fixing "just and reasonable" rates would almost automatically relieve freight rates where relief was most needed. The position of other privately-owned railways would require special consideration in accordance with their circumstances.

36. A subsidy of the sort described in the preceding paragraph can be compared to a negative income tax. A corporate income tax increases, while a subsidy reduces, the revenue which must be obtained from freight rates. The comparison is not made for the sake of a paradox but to lead to a very practical conclusion. A moderate subsidy could be accorded to freight rates in general and could be extended equitably to all privately-owned railways by simply foregoing the corporate income tax on railway income. This tax, as at present imposed, is treated as part of the railways' expenses and therefore is passed on in freight rates to shippers or consumers. It is *prima facie* unreasonable to tax freight rates if these rates are considered too high, and it would be clearly unreasonable for the same authority first to tax them and then to subsidize them.

37. At present the situation is curious. The corporate income tax is carefully charged to freight rates, so that there is no diminution in the income available for dividends. But when a deduction was allowed in respect of the personal income tax to recipients of dividends from Canadian corporations, the shareholders were compensated in so far as railway income was concerned for a loss which they had never suffered. This anomaly could easily be eliminated if the corporate income tax were not imposed on railway income.

38. The suggestions made in the preceding paragraphs would simplify general revenue cases and conduce to their expeditious settlement. Once a rate base had been defined, the Board would have to determine the appropriate rate of return for a railway to be allowed to earn on its investment in the circumstances of the day. In practice it would no doubt consider whether or not there were compelling reasons for changing the rate which it had approved in a previous case. It would then multiply the statutory rate-base of the Canadian Pacific Railway by this rate of return so as to calculate the income which that railway should be allowed to receive. It would then deduct any subsidies which Parliament might have provided and so determine what part of the railway's income should come from its railway earnings. Finally, it would consider the proposals of the railways for the apportionment of the burden of providing these earnings among the various users of the railway. At this point the conflicts of

interest would appear clearly as what they really are: Conflicts between various classes of shippers. Dissatisfied shippers might ask Parliament for a larger subsidy, but their demand would be held in check by their ignorance as to which class of shipper would benefit by any increase; for a larger subsidy would merely diminish the burden to be apportioned among shippers and would leave the Board free to apportion this burden as it saw fit.

39. It remains to consider the position of the Canadian National Railways. This great railway system has much to gain from making Canadian railway policy clear and intelligible. It should be frankly recognized that:

(a) The Canadian Pacific Railway is, in respect of its railway operations, a regulated public utility entitled to an opportunity of earning a fair return on its investment;

(b) This requirement will determine the general level of freight rates in Canada;

(c) The Canadian National Railways is a socialized enterprise which must operate certain properties and provide certain services irrespective of their commercial merits;

(d) These properties and these services are of such a character that comparability with the Canadian Pacific Railway (or with any railway) is not possible.

(e) It is not practicable to make the capital structure of the Canadian National Railways such that comparability with the Canadian Pacific Railway can be established so that each railway will serve as a test of the efficiency of the other.

In short, while the Canadian Pacific Railway as a privately owned public utility is entitled to an opportunity to earn a fair return on its railway investment; the Canadian National Railways as a socialized enterprise should be expected to do the best it can at rates fair to the Canadian Pacific. The attempt to establish comparability, either to excite emulation or to make one railway a check on the other should be definitely abandoned. It is not practicable to arrange suitable handicaps for such a race.

If this difference is recognized, the capital structure of the Canadian National Railways could be greatly simplified. It could be made equal in amount to the earning power of the railway capitalized at a low rate of interest. It could consist of bonds in the hands of the public and of equity securities in the hands of the government. The management might be allowed considerable freedom in building a surplus or reserve.

40. To avoid any inconsistency with the particular conclusions with which I have associated myself in the main body of the Report I have recorded a few reservations: (a) I have not joined in the general condemnation of the railways at the end of Chapter I; (b) I have dissociated myself from the reasons given by my colleagues for not approving of the proposed amendment to the Railway Act directing the Board to see that freight rates give the Canadian Pacific Railway a fair rate of return on its railway investment. It has seemed to me necessary to supplement our specific conclusions with some description of the overall position to which these conclusions are related because I feel that, unless I make some such statement, I shall not be contributing everything that I can to the discussion of Canada's transportation policy.

### \* MEMORANDUM ON TRANSPORTATION BY DR. H. A. INNIS

The place of the St. Lawrence Great Lakes system in the history of transportation in Canada has long been recognized. Attempts to strengthen its competitive position with other approaches to the continent, such as the Hudson River, Hudson Bay and the Mississippi River, characterized the French regime, the British regime and the federal system of Canada. The Rideau Canal was built under the British regime as a means of ensuring an alternative route to the St. Lawrence in case of war with the United States. The Welland Canal was built to offset the pull of the Erie Canal on the upper lakes to New York. The Act of Union of 1840 provided a financial base for completion of the St. Lawrence Canals to a depth of nine feet above Montreal, with the same objective.

The St. Lawrence system built up to compete with New York became obsolete following the construction of railways in the United States. In turn it became necessary to construct railways in Canada, and the Grand Trunk was designed to offset the limitations of the canal system in the competition for traffic. Its difficulties as a line complementary to the waterways, sharing their traffic, and influenced by their tolls, and extending its eastern terminus to Portland on the Atlantic seaboard as an open port, compelled it to extend its western lines to a terminus at Chicago for traffic from the middle west.

To offset the handicaps of a railway and water system on the St. Lawrence, Confederation was designed to an important extent to improve the waterways and to extend control eastward by construction of the Intercolonial to Maritime ports and westward to the Pacific coast. The Intercolonial was completed as a government undertaking from Halifax to Riviere du Loup in 1876 and was ultimately extended to Montreal. To carry out the terms of Confederation with British Columbia in 1871 which required that a railway be completed to the Pacific coast, sections of railway were built by the government and handed over with subsidies in land and money to the Canadian Pacific Railway. A transcontinental railway from Montreal to Vancouver was completed in 1885 and extended eastward across Maine to the open port of Saint John, New Brunswick, in 1890. On the St. Lawrence the upper St. Lawrence canals were deepened to fourteen feet by 1901 and the ship channel below Montreal of thirty feet by 1906. By the deepening of canals and the construction of railways Montreal after 1900 became an export centre for wheat from Western Canada and the Western States.

Expenditures in construction of railways and canals on a vast scale involved extensive financial support by the government and a marked increase in public debt. Interest on the debt was kept down by guarantees on loans by the Imperial Government and by other devices. Canal tolls were held down by competition with American canals and with railways, were abolished in 1903 and were of little consequence in meeting interest on the debt and operating expenses. Revenue could not be obtained by a tax on exports of staple products and to a very large extent came from customs tariffs. In the words of A. T. Galt, Minister of Finance in 1862, with reference to the increase in tariffs, particularly in 1858, "The government has increased the duties for the purpose of enabling them to meet the interest on the public works necessary to reduce all the various charges upon the imports and exports of the country. Lighthouses have been built, the St. Lawrence has been deepened, and the canals constructed to reduce the cost of inland navigation to a minimum. Railways have been assisted to give speed, safety and permanency to trade interrupted by the severity of winter. All these improvements have been undertaken with the twofold object

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*\*This memorandum is intended as an elaboration of the basic argument behind the conclusions of the Report.*

of diminishing the cost to the consumer of what he imports, and of increasing the *net* result of the labour of the country when finally realized in Great Britain."\*

Confederation involved a compromise between the low tariffs of the Maritimes and the high tariffs of the Canada's, but following completion of the Intercolonial Railway in 1876 the National policy was introduced in 1879 to give protection to Canadian industry, to guarantee traffic for Canadian railways and canals, and to secure revenue to meet deficits and interest on debt. The Canadian Pacific was built across Western Canada close to the American boundary and later through the Crowsnest Pass across southern British Columbia, to check actual and potential competition from American lines and to exploit a market protected against American competition by the tariff. The railway was guaranteed control over the long haul of manufactured products from the industries of the St. Lawrence Great Lakes region to Western Canada and British Columbia, and of wheat, lumber and other products from Western Canada and British Columbia to the East.

The rate structure of the railways reflected the financial problems of transportation. Low rates on exports via canals, particularly after the abolition of tolls, were paralleled through competition by low rates on exports via railways. The customs tariff with particular significance to canals was paralleled by high freight charges on imports of manufactured products. Emphasis on the value of service principle in the freight rate structure was accentuated by the effect of water competition. The general characteristics of financial policy and of the freight rate structure were extended from the St. Lawrence region to Western Canada. High rates on exports of grain by the Canadian Pacific Railway were met by protests from grain growers, by the introduction of the Crowsnest Pass agreement in 1897 and by the agreement in 1901 between the Province of Manitoba and the Canadian Northern Railway. Low rates on exports of grain were paralleled by high rates on manufactured products imported into Western Canada, to some extent offset by the statutory regulations regarding these products under the Crowsnest Pass agreement. Problems incidental to the high rates on internal trade and on imports of manufactured products to the prairie region led to the establishment of the Board of Railway Commissioners and to a series of decisions narrowing the discrepancy between rates in Western Canada and in Eastern Canada, and to demands for equalization of rates. They led further to the construction of competing railways, the Canadian Northern largely through the support of the provincial governments, and the Grand Trunk Pacific and the National Transcontinental of the Federal Government.

A transcontinental railway system such as the Canadian Pacific Railway with a rate structure which emphasized the value of service principle, compelled its competitors to develop similar transcontinental railway systems. Territory to the north of the Canadian Pacific line, built near the Canadian boundary to check American competition, was available for occupation by rival systems. In order to secure a share of the more remunerative traffic in westbound manufactured products it was necessary for the Canadian Northern Railway to extend its main line eastward from the prairies to the St. Lawrence region and westward through the Yellowhead Pass to Vancouver. In Eastern Canada, on the other hand, the Grand Trunk attempted to obtain control over the more remunerative westbound traffic in manufactured products to Western Canada and to build up an eastbound traffic in grain by extension westward. Mr. C. M. Hays stated at a meeting of Grand Trunk shareholders on March 8, 1904, "The Grand Trunk Railway is in this rather ridiculous position from a business standpoint of gathering up traffic from the largest and most prosperous portion of Canada, taking it to North Bay, our connection with the Canadian Pacific, and from there giving it to the Canadian Pacific to haul across the country into this

\*Sessional Papers of the Legislative Assembly of the Province of Canada 1862, Sessional Paper No. 23.

prosperous and rapidly developing district we are speaking of. And what do we get back? Nothing at all." The National Transcontinental from Moncton to Quebec and Winnipeg was built by the Federal Government to be leased to the Grand Trunk and to connect with its subsidiary the Grand Trunk Pacific from Winnipeg through the Yellowhead Pass to Prince Rupert. The two new transcontinental systems were encouraged by the metropolitan ambitions of Toronto in the case of the Canadian Northern Railway and of Quebec and the Maritime ports in the case of the Grand Trunk to offset the position of Montreal in relation to the Canadian Pacific Railway Company.

As a result of difficulties of securing capital especially following the outbreak of war in 1914 the Drayton Acworth Commission in a majority report recommended that the Federal Government assume control of the two new transcontinental systems. Later legislation creating the Canadian National Railways provided for inclusion of the Intercolonial, the Grand Trunk, the Grand Trunk Pacific, the National Transcontinental and the Canadian Northern in a single system. It was the task of Sir Henry Thornton to integrate the various units with the result that long haul traffic between Eastern Canada and the West formerly dominated by the Canadian Pacific was shared with the Canadian National. In the gigantic struggle of the twenties the Canadian Pacific made vigorous efforts to maintain and to strengthen its position in the face of rapid expansion of the Canadian National. As a result of the depression of the 1930's the Duff Commission recommended that steps should be taken to prevent waste and duplication. The Canadian National-Canadian Pacific Act which followed was in itself testimony to the emergence of a position of relative equilibrium between the two systems.

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A transcontinental railway network developed in relation to a rate structure which emphasized the value of service principle with high rates on manufactured products and low rates on raw materials invited competition from other carriers, in particular from the motor vehicle supported by the provinces especially in the construction of roads. In the industrial areas of the St. Lawrence the long run effects of water competition on the rate structure in emphasizing the value of service principle, left the railways and in particular the Canadian National exposed to truck competition. Trucks were adapted to the handling of goods in the upper classifications of the freight rate structure. Highly remunerative traffic in goods of small bulk and high value hauled relatively short distances was lost by the railways to trucks able to exploit the demands for speed, for elimination of excessive handling, and for small inventories. Moreover, trucks were linked to lake and river steamships in the handling of more bulky commodities. As a result of its effectiveness in competition with railways the trucking industry expanded with great rapidity. In 1947 the provinces of Ontario and Quebec had 56.8% of the total surfaced roads in Canada or 82,800 miles, 50.2% of the total motor trucks registered in Canada or 213,666 and 85.5% of the motor buses or 5,843. Of total trucks of 8½ tons and over reporting in Canada in 1947 of 2,896, Ontario had 2,126, and of a total 4½ to 8 tons of 3,997, Ontario had 2,146. The effect on the railways was described by an official of the Canadian National Railways who appeared as a witness for the Railway Association of Canada. He presented estimates of net losses in revenue from the railways to the trucks of 70 to 80 million dollars and other losses of net revenue due to the establishment of competitive rates to keep traffic on the railways of 50 millions or a total of 120 to 130 million dollars yearly.

The eloquent silence of Ontario and Quebec in rate cases and in the hearings of this Commission points to the effectiveness of truck and water competition in keeping down rates in the St. Lawrence region. More extensive and better

highways bring an increase in the density of traffic, greater diversification of industry, lower interest rates on capital, and even greater extension and improvement of highways. Ability to escape from the full impact of increases in railway rates accentuates the burden of these increases on other regions and compels these regions to concentrate on highway construction as a means of escaping from the burden of higher short haul rates and long haul rates. The costs of road transportation of products for export are lowered and contribute to the long haul traffic of the railways. Trucks, for example, bring grain by road at lower costs and for longer distances to elevators for shipment by rail than horse drawn vehicles. Inability to escape the increased burden of higher rates on long haul rail traffic limits the financial strength and restricts the diversification of industry in these regions. The effectiveness of truck competition in the St. Lawrence region by weakening the financial resources of other regions, limits their possibility of escape from the burden of higher railway rates by means of road construction and motor vehicles.

In both the eastern and the western regions the provinces by regulation and lack of regulation have attempted to increase truck competition with the railways. In New Brunswick regulation is admittedly ineffective. In Saskatchewan and Manitoba regulatory boards keep truck rates below railway rates. Following the increase of 21% in rail rates the Manitoba board allowed trucks to increase rates by only 15%. In an attempt to offset the effects of truck competition, the Canadian Pacific Railway acquired control of Dench truck lines in Western Canada, including British Columbia. The province of Alberta has intimated that it will not give licences for trucks controlled by the railway. Though operating under regulations of provincial boards the railway has been able to take advantage of the lack of regulation over interprovincial truck traffic, and interprovincial truck rates between Manitoba and Saskatchewan have been brought up nearer the level of railway rates. Higher interprovincial rates are justified in part by necessity for example in purchasing double licence plates but they present obstacles to trade between provinces and favour intraprovincial trade. It is of concern to the Federal Government to institute machinery which will collect full information on the extent of interprovincial trucking.

— II —

The effects of the undermining of the rate structure by truck competition particularly in the St. Lawrence region were evident in the development of close co-operation between the railways. A witness for the Canadian Pacific Railway described the railway situation in Canada as a duopoly. As contrasted with a monopoly a duopoly may exist "as long as there is a single variable of policy concerning which the two duopolists do not have an explicit agreement." "Approximately the maximum gain to each duopolist is attained when the two do collaborate and set a near monopoly price."\* In other words "if sellers have regard to their total influence upon price, the price will be the monopoly one," (Chamberlain). Characteristic of a duopoly, the two railways are each intent on avoiding the appearance and charge of monopoly, on emphasizing the appearance of competition, and in exaggerating their dissimilarities. The contrast between private enterprise and government ownership has been stressed partly as a device to emphasize the appearance of competition but it cannot obscure the essentially monopolistic character of a duopoly.

Even before the release of controls by the Wartime Prices and Trade Board the railways applied for a horizontal increase in rates of 30%. In contrast with the lack of interest of the provincial governments of Ontario and Quebec

\*G. J. Stigler, Notes on the theory of duopoly, "Journal of Political Economy", August 1940, P. 521.

in this rate case, incidental to the effects of truck and water competition in the St. Lawrence region, the other provinces, unable to escape from an accentuated burden of increased rates, in spite of diverse efforts, displayed an intense interest reflected in prolonged opposition over a long period and in the eventual decision of the Board of Transport Commissioners to grant an increase of 21% in 1948. A second demand for an increase of 20% of 121% or 45% above the 1946 level was again opposed but met by a series of increases of 8% in 1949 and 8% and 4% in 1950.

The nature of the impact of horizontal increases on other regions than the St. Lawrence varies with the geographic character of the region, of its resources and of its markets. The market, through the costs of transportation to it, will determine the resources which will be developed and the methods by which they will be produced. The rate structure will be adapted to the production and export of commodities for the market and will emphasize specialization of production in low rates on primary products and higher rates on imports of manufactured products of a largely protected industry. Statutory rates such as the Crowsnest Pass rates, and the customs tariff, reflect and accentuate the emphasis of the rate structure on specialization by maintaining low level rates on primary products or grain and increasing the burden on imports of manufactured products. The prairie economy by an increase of 45% in rates on commodities other than grain, coal and coke is compelled to specialize more intensively on the production of grain. The enormous capital equipment built up in relation to grain production is used to greater capacity and the burden of the rate increase probably carried more easily than would have been the case with other types of adjustment. While the burden was probably carried more easily because of intense specialization, for the same reason it could not be shifted. Indeed in the long run increased specialization involves handicaps peculiar to it. Evidence was presented to suggest that low rates on livestock from Western Canada had been favoured by the railways because of their contribution to the long haul traffic to the detriment of the packinghouse industry in Western Canada. The effects of intense specialization incidental to the importance of the long haul and the horizontal increase in rates become evident in types of vulnerability such as characterize dependence of the prairie provinces on grain in fluctuations in yield or in the decline of population in Saskatchewan in part a result of increasing industrialization of grain production. A substantial horizontal increase involved a direct burden on the economy and accentuated a type of economy more exposed to direct and indirect burdens.

In regions other than those under the Crowsnest Pass rates, the effects of a horizontal increase in rates on various classifications are shown more clearly. Irrespective of the varying effects of rising prices or inflation on different commodities, a rate structure emphasizing the value of service principle will include rates on commodities in higher classifications which increase more rapidly in absolute amounts than those in lower classifications. An elastic element is introduced by which the rate structure is stretched upwards from the bottom. Assuming inflation in which prices of finished products rise more rapidly than those of primary products the effect is accentuated. Indeed commodities paying the lowest rates may be unable to stand the increase and special provisions may be introduced stretching the increased rates on such commodities downward as in the case of flat rates on coal. The burden of horizontal increases becomes most acute on commodities in the highest classification hauled the longest distances. Specialization, for example in the production of lumber and other products in British Columbia, will be intensified, as in the case of grain in the prairie provinces, as a result of a horizontal increase but since no statutory rates are involved costs of transportation may narrow the market. The importance of lumber and its susceptibility to price changes incidental to its importance in the building



industry and its position in the business cycle makes for an unstable economy and probably contributes to the difficulties inherent in the rapid depletion of forests. The costs of imports of manufactured products by the long haul will increase most and it is perhaps significant that the submission of the province of British Columbia emphasized the disadvantages of the value of service principle of rate making and the importance of the cost of service principle. It is probably more than a coincidence that the horizontal increase of 21% was followed by the removal of the mountain differential. It is not less a coincidence that following its removal Alberta has complained most of the effects of violation of the long and short haul principle.

In the Maritime region specialization has developed in primary products chiefly in relation to export markets, and in manufactured products in relation to the Canadian market. The position of highly specialized Maritime industries\* was strengthened by the Maritime Freight Rates Act which reduced rates within select territory as well as rates from select territory westbound 20% below the level in 1927. They were still further encouraged by the demands of the war and the freezing of railway rates under the Wartime Prices and Trade Board. A horizontal increase in freight rates has brought difficulties to Maritime industries dependent on the long haul to Canadian markets and in some cases on the long haul of raw materials from other parts of Canada. The bulky cheap primary products of the farm, the forest and the sea for export have been exposed to the fluctuations of world prices and to the effects of relatively rigid costs determined in a protected market. As a result of the difficulties of the world market and the shift to the domestic market, chiefly the St. Lawrence region, problems of adjustment to the demands of that market and of freight rates on a long haul become acute. Effective competition in the St. Lawrence region involves concentration on highly specialized products less effectively produced in that region and not exposed to competition from the products of British Columbia and Western Canada. Specialized production in British Columbia as developed under the demands of the long haul to the St. Lawrence region, for example, will restrict the market for similar products from the Maritimes. Limitations of the Central Canadian market for Maritime primary products have been evident in the use of various expedients such as the payment of subsidies on fish, assistance in shifting to the production of new varieties of apples, and floor prices for potatoes. Horizontal increases on freight rates on Maritime primary products enhance the difficulties of competition in the Central Canadian market particularly as these products are characterized by fluctuations in prices and are sold on the basis of delivered prices rather than free on board. Commodities in lower classifications of the freight rate structure such as low end hardwood and low grade coal are faced with acute difficulties and bulky commodities such as turnips and potatoes are exposed to additional hazards not excluding a decline in rates incidental to truck competition on the products of the central region. As in the West a horizontal increase on specialized products whether manufactured or primary was perhaps borne more easily but it involved further emphasis on specialization and assumption of a burden which could not be shifted. Nor is it probable that a horizontal increase can be carried as easily in the West in spite of the advantages of water competition. Problems of production are much more complex than in Western Canada, involve to a greater extent competition with the products of Central Canada, and include low-priced products seriously affected by a horizontal increase.

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\*Industries dependent on long hauls in the Canadian market have resorted to administered prices on their products in which freight charges were absorbed in a fixed price. Special types of products of high value and small bulk on which freight charges were a small percentage of sale prices were particularly suited to this device. Industries located in the St. Lawrence region have advantages in the development of administered prices denied to those in other regions as is suggested in the importance of mail order stores. Administered prices of such goods as are sold through catalogues have developed to offset the inequities of the rate structure and the difficulties incidental to long hauls to a nationwide market. Goods ill adapted to the use of administered prices are more directly exposed to the problem of rates.

Diversification and consequent stability in regions other than Central Canada are difficult to achieve in the face of persistent pressure from the railway rate structure. The interest of the railways in the long haul is supported by the interest of powerful industrial organizations which have developed under a protective system in the St. Lawrence region at the expense of weaker industries in other regions. Competitive rates in Central Canada and the customs tariff strengthen the railways in their monopoly of the long haul. A case was cited in evidence in which railway rates on cement from Paris, Ontario, to Vancouver were adjusted to the customs tariff to keep out English cement.

— III —

The impact of horizontal increases on the long haul has been reflected in increased emphasis on specialized production in regions other than the St. Lawrence. In turn emphasis on further specialization strengthens the monopoly position of the railways in relation to the long haul and in relation to their displacement from short haul traffic by truck competition. The interest of the railways, particularly of the Canadian Pacific, in long haul traffic is in part a result of greater utilization of capacity of road bed, equipment and rolling stock. Concentration on their monopoly of the long haul enables the railways to reduce expenses and to increase revenues. The remunerative character of long haul traffic was evident in the statement of a witness of the Canadian Pacific Railway that transcontinental rates below the average minimum earnings of 35.3 cents per car mile in 1948 were justified in terms of revenue. Transcontinental railways have been particularly concerned with long haul traffic giving the largest revenue in relation to expenses. The importance of the long haul of primary products moving in one direction is reinforced by the even greater importance of the long haul of finished products moving at higher rates in the opposite direction and by greater utilization of plant. Truck and water competition in Central Canada and in other regions compels the railways to rely on the long haul to an increasing extent and emphasizes the importance of the customs tariff in restricting competition from American lines.

The duopolistic character of the railways involves concern with revenue rather than traffic. Railways protected by tariffs and monopoly areas like other protected industries are more concerned with revenue than volume. Loss of protection in certain areas through the development of truck competition has increased the need for further reliance on protected areas and on a monopoly of the long haul. A witness for the Canadian National Railways held that it had become extremely difficult to build developmental lines because of the loss of revenue incidental to truck competition. Since this system in its location is more concerned with the opening of new territory than the Canadian Pacific the implications for economic expansion become obvious. Transcontinental railways have enormous administrative problems and are necessarily concerned with the transcontinental point of view. Emphasis on the long haul and concern with rates and revenue rather than traffic involves a neglect of regions and compels both federal and provincial governments to take an active interest in the problems of production and traffic. Special legislation and statutory rates have been concerned with regional difficulties as have such devices as price floors, feed grain assistance and special subsidies, for example, on coal.

— IV —

As part of a duopoly, with enormous economic and political power supported by protected industry, and as particularly affected by truck and water competition in the St. Lawrence region, the Canadian National Railways is directly concerned in strengthening its control over the long haul and in the bias toward

finance rather than traffic shown in its concern with recapitalization. Because of its position as a predominantly eastern line and of the importance of competitive rates it refused to add the final 4% granted by the Board of Transport Commissioners to competitive rates even though this prevented the Canadian Pacific from accepting it as well. Its aggressive attitude in favouring extension of agreed charges again reflected the importance of truck and water competition.

As the owner of the Canadian National Railways, Parliament is apt to be influenced by the attitude of its property notably in its concern with finance. It becomes necessary for Parliament to appraise the limitations of Canadian National policy in the interests of the economy as a whole and to recognize a sharp distinction between the financial balance sheet of the Canadian National Railways and the welfare of the economy. Failure to recognize this distinction is a blow to Confederation since it permits an instrument of Parliament to strengthen favoured regions at the expense of weaker regions. A reluctance of Parliament to consider other factors than a balance sheet is enhanced by the interest of the central provinces in supporting extension of roads and the use of motor vehicles and in attracting highly remunerative railway traffic in a densely populated region. It is easier to accept a practice in which the costs of relative obsolescence of the railways is shifted through a favourable balance sheet to long haul traffic to other regions unable to evade it than to accept an unfavourable balance sheet and to meet a deficit. Parliament may easily develop a vested interest in a device by which an industry based on iron and coal becomes to some extent obsolescent in competition with roads and oil.

Confederation involved the building of railways notably the Intercolonial and the Canadian Pacific Railway and the deepening of canals. As canals became relatively obsolescent in the face of railway competition, the burden of debt was carried by Parliament. As railways became relatively obsolescent in the face of competition from motor vehicles sponsored by stronger regions the burden of debt has been conspicuously carried by weaker regions as well as by Parliament.

Solution to the transportation problem includes consideration of the adjustment of the burden of obsolescence by transcontinental railways which will preclude undue imposition on long hauls and on regions other than the St. Lawrence and in a sense a defeat of the purposes of Confederation. The problem of duopoly in relation to regions was sharply illustrated in evidence submitted by Prince Edward Island. In a duopoly the territory served by each railway without fear of competition from the other railway becomes a monopoly. Traffic within this territory is favoured by a single line rate and traffic with another railway discouraged by a refusal to grant similar rates. Even in the case of the Quebec Central Railway under a lease to the Canadian Pacific Railway through rates on interline traffic are limited. As a result an artificial division is set up within the economy as a whole between regions served by each railway. A bulge in the costs of transportation emerges at points at which traffic is interchanged between different railways which becomes more serious with horizontal increases. Situated at the eastern extremity of Canada and under a monopoly of the Canadian National Railways, Prince Edward Island complained of its position in the federation. In arguments submitted in favour of amalgamation it was implied that each railway exploited the territory over which it had control and that costs of competition in competitive territory were met in part in non-competitive territory.

From the evidence submitted by Prince Edward Island it was apparent that the monopoly position of the Canadian National Railways had been used to restrict motor vehicle operations. The province is particularly exposed to the dangers of a monopoly of a relatively obsolescent type of transportation in restricting an extremely important source of revenue in the motor car and the

tourist trade. Complaints were made of the monopoly of the railway over the ferry between Borden and Cape Tormentine on the mainland in restrictions on trucks and that shippers in Prince Edward Island were at a disadvantage with shippers in New Brunswick. The province argued that the Canadian National had become an instrument through which the intent of the terms of Confederation was being flouted. The problems of competition with the motor truck in the St. Lawrence region seem to have been met in part by the monopoly control of railways in other regions.

The arguments of Prince Edward Island in favour of an amalgamation of the railways as a means of reducing the costs of railway operations and in turn the burden of increased rates on the long haul as a result of truck and water competition in the St. Lawrence region have less force since the dangers of excessive railway competition feared by the Duff Commission have receded as duopoly has emerged under the pressure of competition from new types of transportation. Conditions under a duopoly will not differ fundamentally from conditions under amalgamation. Under a monopoly following amalgamation, the problem of truck and water competition particularly in the St. Lawrence region and of attempts to shift the burden through the long haul to other regions would persist though it might not be obscured as under the present system of duopoly. Indeed evidence was submitted which suggested that the Canadian National-Canadian Pacific Act might with advantage be repealed since it obscures the essentially duopolistic character of the railways in a presumption of competition which has long since ceased to exist. Co-operative activity under the Act was very largely limited to the period immediately following its enactment. More recently it has shown signs of becoming a device to prevent a more active line abandonment policy on the part of both roads.

— V —

The complexity of problems of adjustment is enhanced and the effects of competition in the St. Lawrence region obscured by the importance of international rates in relation to wages and prices. Joint international rates between Canada and the United States apply chiefly between points in Eastern Canada and points in the Eastern United States where the amount of international traffic is large. It is estimated that in the year 1949 23% of the total traffic of Canadian Railways, including \$70 million for the Canadian Pacific Railway; of which about 2/3 is concentrated in Eastern Canada, and 1/3 in Western Canada, and \$75 million for the Canadian National Railways of which about 10% is in the Maritimes, 70% in Central Canada and 20% in the West, is obtained from international traffic. Since rate increases have recently taken place more frequently and in greater amounts in the United States than in Canada, and since the Board permits the same increases in Canada on international rates at the same time that they are applied in the United States, the revenues of Canadian railways obtained from international and related traffic are substantial.

Expenses in connection with the traffic are increased by the movement of empty cars both north and south. Southbound traffic is restricted in the main to low grade products, because of American customs regulations which favour American industries, and include lumber, woodpulp, newsprint, aluminum, cattle, potatoes, and turnips. It involves a southward movement of high grade box cars. Northbound traffic includes coal and coke, iron and steel, machinery, fruit and vegetables, California and Southern lumber, cotton, linseed meal and canned goods and involves the use of special cars, particularly hoppers. To offset these expenses the wages of labour on Canadian railways are lower than on American railways. Moreover, international rates appear to be relatively free from truck competition, as trucks are prohibited from carrying goods in bond to interior Canadian points where customs duties are paid.

Legally, international rates in Canada are under the control of the Board of Transport Commissioners but actually they are determined by the Interstate Commerce Commission. An important part of the revenues of Canadian railways is therefore beyond the jurisdiction of the Board of Transport Commissioners. An increase in revenue as a result of the more rapid advances in rates permitted by the Interstate Commerce Commission might be expected to strengthen the position of the Canadian railways, and to lessen their pressure on the Canadian rate structure and their demands on the Board of Transport Commissioners. In a sense the Interstate Commerce Commission has been a useful auxiliary to the Board of Transport Commissioners. On the other hand, it weakens the Board by making it less sensitive to public demands and less active in taking the initiative in rate adjustments. The activity of the Interstate Commerce Commission favours the inactivity of the Board of Transport Commissioners.

While rate increases resulting from action of the Interstate Commerce Commission may reduce the pressure of Canadian railways on the Board for an increase in rates in the short run, they may increase the pressure in the long run. They will become concerned with an increasing disparity between Canadian domestic rates controlled by the Board of Transport Commissioners and international rates determined by the Interstate Commerce Commission and will become active in demanding increases in Canadian domestic rates to bring them to the level of international and American rates. Increased rates in the United States are followed by increased wages and by the demands for increased wages by Canadian unions. In the words of a spokesman of the unions "there cannot be full satisfaction of the employee's views and demands until Canada-United States parity is restored". Attempts of labour to increase wages to the American level are followed by attempts to increase railway rates in Canada to the American level. An increase in international rates in Eastern Canada as a result of advances in rates in the United States implies a direct pressure of American price levels on Canadian prices and wages and increased costs of operation particularly in Central Canada.

— VI —

Increased costs especially wages following the influence of the United States compel the railways to attempt substantial rate increases which involve serious disturbances in areas that are particularly dependent on the European markets such as have been evident in the sustained character of opposition from regions other than the St. Lawrence. In 1949 the payroll of the Canadian Pacific was 56.6% of operating expenses and of the Canadian National Railways, 59.5% of operating expenses. The higher wages bill of the Canadian National is in part a result of the relatively higher proportion of less than carload freight and of the higher labour costs of operating in a densely settled area. But it also suggests that a government owned railway will tend, because of political implications, to pursue a cautious policy with respect to employment and that it has less freedom to adjust labour costs rapidly than the Canadian Pacific. In a period of depression the Canadian National will perhaps be more exposed to the pressure of public opinion to maintain employment particularly in maintenance work, but the Canadian Pacific will be compelled to follow a similar policy.

Since labour insists on its rights to appeal to the final authority of the Governor in Council or of Parliament it may be expected to recognize the position of the Canadian National Railways as a government owned railway. "Labour in Canada has never given up the right to use its economic strength if necessary and has never been asked to do so." The threat of a strike and a forthcoming election were accompanied by an appeal to the government and an increase of 17 cents an hour in 1948, and the strike was followed by the calling of Parliament and the enactment of legislation in 1950. Increases in wages

sanctioned by the government as the owner of the Canadian National and involving a decline in revenue have immediate implications for the Canadian Pacific. It is continually threatened by the influence of labour and the possibility of successful appeals to the government as the owner of the Canadian National Railways. Reduction of the revenues of both railways weakens the possibility of securing capital for the introduction of labour saving devices or for developmental projects but the effect is more serious for the Canadian Pacific than for the Canadian National. Labour gains directly by an increase in wages and indirectly by the difficulties of the railways in securing capital, in introducing technological improvements, and in eliminating obsolescent plant notably in abandoning branch lines.

The difficulties of the Canadian Pacific Railway in securing capital compels its officials to take active initiative in securing an increase in rates following increases in wages. The Board of Transport Commissioners has recognized the importance of the requirements of the Canadian Pacific Railway as a basis of rates but these requirements from the standpoint of wages have been determined to an important extent by the position of the Canadian National Railways as a government owned road. Moreover, the rates allowed by the Board in relation to the requirements of the Canadian Pacific have not been fully conceded by the Canadian National since the extent of its lines in the St. Lawrence region precludes it from agreeing to the addition of the full amount on competitive traffic. Since the Canadian Pacific is compelled to recognize the refusal of the Canadian National to concede increases on competitive rates it is weakened in its claim for horizontal increases on long haul traffic since rates on this traffic would be thrown increasingly out of line with rates in the St. Lawrence region. Moreover, the Canadian National has shown signs of reluctance in supporting the full demands of the Canadian Pacific and of anxiety to escape from the odium attached to demands for rate increases. It did not join in the attacks of the Canadian Pacific Railway on the Crowsnest Pass rates and in the appeal to the Supreme Court against the 8% judgment in 1949.

— VII —

Increased wages were followed by demands for increased rates. Limitations on increased rates on competitive traffic tend to increase the burden on rates on non-competitive traffic. The position of the Canadian National as a government owned railway in relation to public opinion and the demands of labour, and its importance in the St. Lawrence region tend to make it an instrument designed to increase the burden of the long haul or to turn it from an instrument designed to promote tendencies toward equality between regions, to an instrument designed to reverse such tendencies. It has been part of the task of the Commission to suggest methods and devices by which the effects of the change may be offset.

We have discussed in the chapters on the Maritime Freight Rates Act, economic, geographic and other disadvantages, horizontal increases and elsewhere the importance of a system of maxima and of other devices in meeting the demands for a flexible rate structure. Much evidence was presented to show the effects of truck and water competition in the St. Lawrence region, of the protective system, of wage increases, of passenger losses and of statutory rates on the rate structure. The extent of the burden imposed on the long haul to Western Canada and to the Maritimes was suggested from many directions

The Railway Association of Canada presented calculations to support a possible conclusion that direct and indirect net losses of freight revenue due to truck competition might be estimated at \$120 or \$130 million for both railways. Since a substantial proportion of this loss must be allocated to the St. Lawrence

region, it might be assumed that it is made up to an important extent on the long haul on other regions.

The Province of Manitoba pointed to the losses on passenger traffic, their imposition on freight traffic, particularly on the long haul, and the possibility of a subsidy to that extent from the government. According to various methods of calculation, estimates of these losses would range from \$8 million to \$28,866,961 for the Canadian Pacific Railway or possibly twice these amounts for both railways.

While no recognition was given to the estimates of the Canadian Pacific Railway of the extent to which the Crowsnest Pass rates were not compensatory on its lines, it is of interest to note that these estimates ranged from \$13,769,000 to \$16,947,000 or possibly double these amounts on both railways for the year 1948. It may be assumed that such amounts would be paid from revenue obtained from other rates particularly on goods moving under the higher freight classifications. The Canadian Pacific held that if Crowsnest Pass rates had borne their proportion of the general freight rate increases, the increase in the 21% case should have been 18%. In the total of 45% rate increases following recent decisions, an increase in the Crowsnest Pass rates would have meant an increase of about 38½%.

Minimum losses on both railways attributable to the Crowsnest Pass rates \$27,500,000, passenger traffic \$16,000,000 and competition from trucks \$120,000,000 possibly involves a total of \$163,500,000. This amount cannot be allocated specifically to long haul traffic but the statutory character of Crowsnest Pass rates, competition from water and truck in the St. Lawrence, and to some extent in the Maritime regions, and the inability to regulate competition of such transportation under provincial jurisdiction, and competition from the motor vehicle and air transport in passenger traffic, imply that rates will be borne to an important extent by long haul traffic notably in relatively non-competitive territory such as the Western provinces with little prospect of relief by decisions of the Board. The Traffic Adviser of the Commission estimates that "the difference between the high class rates within Western Canada and from Eastern to Western Canada and the lower class rates of the Eastern town tariff scale" including the 20% increase of 1950 totals \$14,563,519 on a year's basis.

Various proposals have been advanced to ease the burden of the long haul on the Western provinces. Mr. Walter Tucker, Leader of the Liberal Party in the Province of Saskatchewan drew our attention to a proposal advanced by him in a speech in the House of Commons on March 11, 1947 and to a resolution of the National Liberal Convention, held at Ottawa in 1948. In the resolution reference was made "to the claims of Western Canada that a large expenditure of money has been made by the Government of Canada to build canals and other public works in Central Canada, to improve water transportation, thereby forcing competitive rates down in Central Canada resulting in rates elsewhere having to be increased to provide the necessary railway revenues; and also the further claim that national policy has caused trade to flow in uneconomic channels whereby, for example, the trade of the Prairies in large measure has had to pass over a large unproductive area so far as freight revenues are concerned between the Prairies and Central Canada with a resulting extra freight burden on the prairies, which extra burden should, in equity, be borne at least in part by the nation as a whole". Mr. Tucker advanced the proposal that "the large stretch, the unproductive spread between west of the lakes and east of Winnipeg" over which traffic must be handled both ways be treated as "a river to be crossed, where you provide a bridge at public expense or perhaps where you provide a canal on which you can haul goods and do so at the expense of the public". "If the costs of hauling goods across that unproductive area were paid by the

state it would increase development, not only in Western Canada but in Eastern Canada as well." "That would be better than increasing freight rates." No estimate of the cost involved in the proposal was presented. An approach to the subject might be made by estimating the cost of maintenance of 600 miles of each railway. For both railways this might range from a maximum of \$6,500,000 to a minimum of \$4,200,000.

Following a study of the successful operation of the Maritime Freight Rates Act, the Province of Saskatchewan asked for a reduction of 20% on all freight bills on all rail traffic in the prairie provinces, on all rail and all lake and rail freight traffic originating in the prairie provinces, excepting grain and grain products moving at Crowsnest Pass rates, to the point of destination in other provinces, and on all rail and lake and rail freight from other provinces terminating in the prairie provinces involving a total estimated subsidy in 1948 of about 40 million dollars.

While the proposal has advantages in the ease with which amounts can be calculated, it has distinct limitations in that eastbound freight has the advantage of low rates under the Crowsnest Pass Rates Act and of constructive mileage between Winnipeg and the head of the lakes. The waybill study (expanded from four days to one year) shows a movement of class rate traffic from British Columbia and the Western provinces eastbound bringing revenue of \$2,336,080 and a movement of class rate traffic westbound to the prairie provinces and British Columbia of \$30,761,491. "For the four days of the study 968 cars with an average load of 15.6 tons, revenue of \$620 per car and an average haul of 1828 miles moved from east to west, and 1002 cars with an average of 29.7 tons, revenue of \$507 per car and an average haul of 1932 miles from west to east." A reduction of rates on class rates traffic in the Western region and westbound would offer the greatest immediate relief. Such a reduction would encourage long haul and local traffic in Western Canada producing the greatest revenues. An increase in this traffic would be of the greatest advantage to the railways in the utilization of equipment and the reduction of expenses. It would be of advantage to producers and consumers in the Western provinces and to producers in the St. Lawrence and Maritime regions.

Rates on westbound traffic have been of direct interest to the railways, to the Western Provinces and to Parliament. In the Crowsnest Pass Rates Act of 1897, reductions on the movement of certain items westbound ranging from 33 $\frac{1}{3}$ % to 20% to 10% were made statutory by Parliament. These reductions were eliminated in 1925. The constructive mileage between Fort William and Winnipeg in which 420 miles becomes 290 miles involves a reduction of mileage over this territory of roughly 30%. At present westbound traffic is encouraged by a constructive mileage involving a decrease of 30%, reduced to 21%, by "tapering" off of the standard mileage rate between Fort William and Winnipeg, and to tapered distributing class rates of 15% below the standard mileage rate west of Winnipeg.

Under these circumstances the most effective method of bringing relief would be recognition of the 30% off of the standard mileage rate for 420 miles between Fort William and Winnipeg instead of 21%. Extension of this reduction west of Winnipeg would involve 30% off the standard mileage rate instead of 15% off the present distributing class rates. As in the case of the Maritime Freight Rates Act the freight paid by the shipper would be reduced and the difference paid to the railways by the Federal Government. The Commission's Traffic Adviser estimates that this reduction would have cost \$5,236,270 in 1950. It should become an investment leading to lower costs of primary and secondary products in the West, revenue for the railways, larger markets for manufacturers in Western Canada, the central regions and the Maritimes, and a stimulus to trade within Canada.



Recognition of the effects of truck and water competition in the St. Lawrence region on the railway rate structure and an attempt to offset its unfortunate implications for the Western Provinces must be accompanied by an active concern in the development of a flexible rate structure through the use of maxima for the Maritimes. A rate structure which in its emphasis on the value of service principle reflects the influence of water competition and in which statutory legislation has been introduced to reinforce the general emphasis in the Crowsnest Pass rates by maintaining low rates on shipments of grain from the Prairie Provinces and in the Maritime Freight Rates Act by checking the effects of high rates on shipments of manufactured products from the Maritimes is particularly exposed to the effects of horizontal increases and of inflation which involve more rapid absolute increases in rates on manufactured products in the upper classifications than in goods in the lower classifications. The markets for products in the higher classifications shipped from the Maritimes to other parts of Canada are narrowed and the burden of rates on such products from Central and Eastern Canada to Western Canada is increased. No scheme of equalization can be devised which will overcome the effects of competition in the St. Lawrence region as reflected particularly in competitive rates. An obsession with equalization will obscure the handicaps of the Maritimes and of Western Canada and perpetuate their paralyzing effects. A reorganization of the regulatory bodies concerned with transportation will facilitate collection of vital statistical facts and offset the most serious effects of a duopoly in its control of information. In this way more precise methods can be devised to meet the problems of transportation in Canada.